

POSSESSION.

1734. *July 9, 30.* CARSTAIRS *against* STUART of Dunearn.

No. 1.

POSSESSION,—to what title ascribed? One acquiring a liferent, and attaining possession, and afterwards acquiring a debt consented to by the liferentrix, and so preferable to the liferent, may in competition with other creditors ascribe his possession wholly to the liferent.

1752. *January 22.*

GRAY of Darnagavell *against* RUSSELL and OTHERS.

No. 2.

POSSESSION immemorial being proved, possession *retro* is presumed; and therefore in a question between the feuars of Auchtermuir, one of them having in his original charter in 1618 by the family of Yester, superior, a clause (in the clause of pasturage) giving him six souns grass more than he formerly possessed, (*i. e.* when he was only tenant) which the other feuars contended did not give him a larger pasturage than them, their feus being all equal, but was only intended to make him equal with them; but he having proved possession immemorial of six souns more than they, the Court presumed his possession *retro*, and found him entitled to six souns more than the rest, 10th December 1751, and 24th January 1752.

See COMMONTY.

See NOTES.