

No. 76.  
common pas-  
turage, not  
sufficient  
without a  
proof of  
possession,

That the pursuers could not legally carry on this process till their titles were instructed, to which a proof of possession was necessary. "And accordingly, the Lords sustained the objection, and found, that the pursuers must prove their possession, in order to make good their titles, before proceeding to a division."

*Sel. Dec. No. 58. p. 77.*

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1761. *February 17.* GORDON *against* OGILVIE.

No. 77.

An apparent heir is entitled to pursue a reduction of a disposition obtained from his predecessors by a fraud; but a ratification by a prior apparent heir is sufficient to exclude him.

*Sel. Dec. Fac. Coll.*

\* \* \* This case is No. 57. p. 14070. *voce* RES INTER ALIOS.

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1765. *August 10.* SYME *against* STEELE.

No. 78.

A process with penal conclusions against a bankrupt, at the instance of his creditors, without the concurrence of the King's advocate, not sustained, the concurrence of his Majesty's advocate is necessary.

*Fac. Coll.*

\* \* \* This case is No. 19. p. 14979. *voce* SUMMARY APPLICATION.

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1765. *August 9.*  
MERCHANT COMPANY and TRADES of EDINBURGH, *against* The GOVERNORS  
of HERIOT'S HOSPITAL.

No. 79.

Ascertained in this action, who are entitled to call the Governors of an Hospital to account.

*Fac. Coll.*

\* \* \* This case is No. 2. p. 5750. *voce* HOSPITAL.