

can never claim the benefit of the said sentence, specially so summarily to charge therefore; because it is not obtained at his own instance, and he is neither made assignee thereto by the obtainer thereof, nor has he obtained it transferred in him as successor in the right of the same, as heritor of the lands. The reason was not respected, and the process sustained at the same pursuer's instance; but this charge was sustained as converted into a pursuit, and as if the same had been moved, for payment of abstracted multures; which, as so converted, the Lords ordained the defenders to answer in this same process of suspension, in respect the charger referred the quantity to the defender's own oath; the Lords found, and declared the cautioner in the suspension to be freed of his becoming caution in the suspension, sicklike as if he never had been acted, and found no necessity that the decret should be transferred, or that the pursuer should have been assigned thereto.

Scot, *Clerk. Vid.* 29th July 1634, L. Innerweik; and for the last part, 25th July 1626, James Stuart, and the cases there.

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1636. *March 2.* The EARL of TULLIBARDEN *against* The BARON of MONESK.

THE Earl of Tullibarden pursuing the Baron of Monesk, as assignee constituted to all the reversions granted to his brother, umquhile William Earl of Tullibarden, for exhibition of certain contracts made betwixt his umquhile brother and the said defender, concerning the wadset of certain lands to him, under reversion, that he might have the transumpt of the said contracts: And the defender alleging that the assignation to the reversions was not registrat in the secretary's registers, as is required by the Act of Parliament;—the Lords repelled this allegiance, because it was not proponed for any who acclaimed any better right to this reversion than this pursuer; neither are assignations to reversions contained in the act of Parliament, which the Lords could not extend.

Act. Nicolson. Alt. Stuart. Gibson, Clerk. Vid. 25th November 1626, Turnbull, and the cases there.

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1636. *March 29.* _____ *against* _____.

ONE having obtained decret against another, for payment of thirty bolls of victual, and seven score pounds also of money; which being suspended upon a discharge granted by the obtainer of the sentence; which discharge was only subscribed by one notary, and so was quarrelled as null, not being subscribed by two notaries before four witnesses, conform to the Act of Parliament, being in a matter more than £100; and the party offering to retrench the discharge, to work only liberation for £100, and no more of the quantity in the sentence: And the other alleging that this being the body of a writ peccant against the law, it could not be restricted to be good in one part and to fall in the rest;—