

1665. *December 18.* PRINGLES *against* PRINGLE.

THE lands of Cockleferry being tailyed to the heirs male,—umquhile John Pringle, last of Cockleferry, by his contract of marriage with Alison Pringle, daughter to James Pringle of Bucholme, *in anno* 1633, obliged himself to resign the lands in the superior's hands, for new infeftment to be given to him and the said Alison, in conjunct fee, and the heirs of the marriage; which failyieing, to the said John his nearest and lawful heirs whatsoever. And there never having been any infeftment following upon the said obligation in the contract, but kept up in the naked terms of a personal obligation in the body of the said contract of marriage, and by the space of eighty-two years since; George Pringle of Bucholme, knowing of the old tailyie to the heirs male, and that his brother, John Pringle of Winlam, was nearest heir-male to the said John of Cockleferry; he deals with John of Williamlaw, his brother, who knew nothing of the said tailyie, and, for a paced nag, obtained the said John of Williamlaw, his brother, to dispone to him all the right he could pretend to the land of Cockleferry, and in the disposition inserts a procuratory to serve him heir; conform whereunto he served him heir-male and of tailyie to umquhile John of Cockleferry, and obtained him to be infeft; and, upon the procuratory of resignation, contained in the same disposition, obtained himself infeft by the superior.\* The sisters of the said umquhile John of Cockleferry, being heirs-portioners, pursue the said John of Williamlaw, heir-male to their brother, to procure himself infeft as heir-male to their brother, and to denude himself in their favours.

It was ALLEGED for the defender, That he was denuded already in favours of the said George Pringle of Bucholme; to whom he had granted a disposition of all interest he had in the lands of Cockleferry, as heir-male to umquhile John Pringle of Cockleferry; and that, if he should now dispone, he should be liable in double warrandice.

To which it was replied, That he was *in mala fide* to have disponed to his brother, as heir-male, after the intention of their cause; and that it appeared to be only simulation to their prejudice, betwixt two brethren, for no onerous cause.

The Lords decerned in favours of the heirs-portioners, notwithstanding of the answer made thereto. *Page 46.*

1666. *January 11.* ALEXANDER FERGUSON *against* ALEXANDER AGNEW.

In a pursuit betwixt Mr Alexander Ferguson, minister at —————, and Alexander Agnew, for his stipend,—

The Lords found, That a minister's assignation to a tack-duty, being fortified with seven years' possession, whatever were the defects thereof, or objections against the same; sufficient to maintain his right of the stipend, and to infer decerniture against the heritors. *Page 48.*

*Nota.*—There was a decret obtained at the instance of the heirs-portioners, against John Pringle of Williamlaw, and the decret was suspended; which was that which was discussed in this place against Williamlaw: and the Lords found the letters orderly proceeded.