

1712. July 2.

JAMES M'MILLAN and the LORD PITMEDDEN, *against* ROBERT DOUGLAS  
Merchant in Edinburgh.

No 22.

THE LORDS reponed Robert Douglas against a decret of the Justices of Peace, decerning him to pay to James M'Millan, as having right by assignation from the Lord Pitmedden, L. 8 Sterling, as the cedent's share of L. 100 Sterling, resting by Robert Douglas to the partners of the powder manufactory; albeit Mr Douglas had compeared in the court; proponed payment, and suffered the term to be circumduced against him for not proving, and not deponing upon the verity of the libel referred to his oath; in respect the decret was pronounced in a count and reckoning for so great a sum by Justices of Peace in vacation time, without a dispensation.

*Fol. Dic. v. 1. p. 493. Forbes, p. 606.*

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S E C T. III.

Prorogation of the Jurisdiction of Commissaries.

No 23.

1611. July 4. WHYTEHEAD *against* LAUDERDALE.

AN action of debt referred to the oath of the debtor, especially if it proceed upon a contract ordained to be registered in the books of the Commissariat may lawfully be pursued by the Commissary *ratione juramenti*.

*Fol. Dic. v. 1. p. 494. Haddington, MS. No 2258.*

No 24.

A decree given by a Commissary, on a contract registered in his books, was reduced.

1621. November 28. L. GREENOCK *against* —.

It was found by the LORDS in an action of suspension betwixt the Laird of Greenock and —, That the Commissaries could not be proper judges to an action of transferring of a contract in the person of the heir of the contractor; albeit the contract itself was registrated in the Commissaries books, conform to a clause of the contract, whereby the parties consented to the registration thereof in their books; and therefore in that suspension summarily, the LORDS found the decret of transferring given by the said Commissaries null, as not proper to their jurisdiction, albeit the contract was registrated in their books.

Act. *Lawtie*.

Alt. —.

*Fol. Dic. v. 1. p. 494. Durie, p. 5.*