

1625. July 23. WEEMSES *against* DAVIDSON.

In an action betwixt Weemes and Davidson, whereby they, as executors to their father, pursued the defender for a debt owing to the defunct, and which they pursued upon a general licence granted by the Bishop of Glasgow, giving licence to them to pursue for all debts owing to the defunct by any of his debtors, wherein no mention was made of any special debt, the Lords found this general licence null, and would not sustain this pursuit moved thereupon, because no special debt was therein contained, albeit the pursuer's action was for a special debt, which he alleged was warranted by the said general licence, giving him power to pursue for all debts, &c. which was not sustained, as said is.

Act. *Cunninghame.*

Alt. *Stuart.*

Clerk, *Gibson.*

*Durie, p. 179.*

No. 15.

A general licence, without mention of any particular debt, was found null, although the pursuer's action was for a special debt.

1626. December 19. STUART *against* COMMISSARY OF DUNKELD.

In a suspension betwixt Mr. John Stuart and the Commissary of Dunkeld, the Lords found the decree controverted in that suspension null, because it was given at the instance of an executor dative decerned, and bore not, "that he had licence granted to him to pursue that cause, whereupon he had recovered sentence;" which title, without a licence, or confirmation of a testament, the Lords found not to be sufficient whereupon sentence could be given; and this was so found, albeit the party offered, *cum processu*, to produce and show where this executor dative had confirmed a testament, containing this same debt contained in that decree, which was not sustained to maintain the decree.

Act. *Lermonth.*

Clerk, *Hay.*

*Durie, p. 249.*

No. 16.

1627. March 2. HEIRS OF LORD YESTER *against* E. BUCCLEUGH.

In a reduction at the instance of the heirs of the Lord Yester, against the Earl of Buccleugh, The Lords found, that the pursuers, as being retoured to their fathers, and infest in the lands libelled, to be holden of the Lord Kilmawers, who held of the King, had good interest to reduce the infestments made to the defender and his predecessors by the King's Majesty; so that one infest by a base infestment might reduce infestments public; but it is to be remembered, that this public infestment granted by the King, and desired to be reduced, proceeded upon a recognition for a fault done by the Lord Kilmawers' predecessors, who were the King's vassals, and authors of the pursuer's rights; so that the infestment quarrelled, which flowed upon the recognition, was accounted, as if the same had

No. 17.

Whether one base infest may pursue reduction of public infestments?