

1627. December 5. ROLLOCK *against* CORSBIES.

A CAUTIONER for a curator was not allowed to plead, That the curator had no right, by reason of a prior act of curatory standing unreduced; in respect neither the curator nor his cautioner could impugn their own deed, and the pursuit was for a sum intromitted with by the curator upon that title.

*Fol. Dic. v. 2. p. 81. Durie.*

\* \* This case is No 6. p. 2074. *voce* CAUTIONER.

No 5.

1629. July 24. LADY CATHCART *against* TENANTS and VASSALS.

THE Lady being donatrix to the ward, as is mentioned 7th July 1629, No 6. p. 4176. *voce* FEU; and the vassals to her husband *alleging*, That she was infeft in feu in some lands held of the King, which staid all ward; and she *replying*, That that infeftment was granted without her knowledge, and that her sasine thereon was not registrate, conform to the act of Parliament; the LORDS found, That that infeftment was not sufficient to exclude the ward, the sasine not being registrate as said is; and which nullity she might oppone against that right made to herself; seeing she clad not herself with that right, but with the right of ward, and which she might as validly take as any other; for if a third person had obtained the ward, that sasine not registrate would not have stopped the same; no more could it be obruded against her, but she might likewise propone the said nullity.

*Fol. Dic. v. 2. p. 81. Durie, p. 467.*

No 6.

1631. February 18. LORD CRANSTON *against* SCOT.

IN a déclarator of liferent-escheat at the superior's instance against his vassal, a compriser from the vassal appeared for his interest, and *pleaded*, That there could be no liferent-escheat, in respect that the vassal's sasine was not registered; and, consequently, was null by act of Parliament. THE LORDS repelled the defence, seeing the defenders could not object the nullity of their own right.

*Fol. Dic. v. 2. p. 81. Durie.*

\* \* This case is No 30. p. 7801. *voce* JUS TERTII.

No 7.