

1665. July 18. ANDREW HUSBAND *against* JAMES HERRING.

ANDREW Husband having pursued James Herring, before the commissary of Dunkeld, for the duties of a piece of land for several years byrun; in which pursuit there being peremptory defences proponed, and litiscontestation in the cause, and a day taken to prove; the defender gets an advocacion. It was debated, whether the cause may be remitted *in hoc statu* or not?

The Lords found the cause ought to be remitted, in respect of the state of the process; although the nature of the pursuit was civil, and not consistorial.

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1669. July 19. JAMES INGLIS and DAVID BRUCE *against* The LORD GRAY.

IN a pointing of the ground, pursued at the instance of James Inglis and David Bruce, against the Lord Gray and his tenants,—

It was ALLEGED, There could be no pointing of the ground; because any right the pursuer had was only base given, to be holden of the granter; and that the Lord Gray ought to be preferred, in so far as he had a right standing in his person, and disponed to him by Alexander Milne, who stood publicly infest, long before the pursuer had made this right public, or had clad the same with possession.

To which it was REPLIED, That Alexander Milne's right was extinct, in so far as the same was satisfied by the umquhile Master of Gray, the common debtor, his money; and that the disposition granted to him being blank in the name, the Lord Gray's name was filled up therein. *2do.* The pursuer's infestment was clad with possession, by receiving the annualrent, before Alexander Milne his infestment.

The Lords repelled the allegiance, in respect of the reply upon possession, as to David Bruce; and ordained the Lord Gray to condescend upon the right flowing from Alexander Milne.

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1665. December 6. ISOBEL HOME *against* HOME of CASTLELAW.

ISOBEL Home, pursuing a reduction of certain lands in the Mers, against Home of Castlelaw, upon this reason,—That her author's right and infestment was long prior to Home of Castlelaw his author's right; in which pursuit the pursuer did only produce his author's seasine:—

The Lords would not sustain this reason of reduction, for reducing the defender's right; albeit he produced nothing but his author's seasine, without a charter, being *in recuperanda possessione*.

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