

No. 2. alleged, with her possession sensyne, to be as good to her as if she had obtained an assignation to the tack, or had been made sub-tackswoman; and the other alleging, that it was only a personal bond, which obliged himself and his heirs, and could not exclude the real right now standing in the person of a singular successor, who had valuably acquired it *ex causa onerosa*; the allegiance was sustained, and the clause was found sufficient to maintain the defender in her right to bruik the lands against any whosoever claimed right to that tack.

Act. Aiton.

Alt. Nicolson.

Clerk, Gibson.

*Durie, p. 440.*

1667. January 22. ISOBEL FINDLASON *against* LORD COWPER.

## No. 3.

Effect of a precept to pay, directed to one, who writes on the bottom of it a precept on another.

Elphinstoun of Selmes having given a precept to Isobel Findlason, and directed to the Lord Cowper, that he should pay to the said Isobel a sum owing by Selmes to her, and receive Selmes' bond from her, upon the foot of which precept, the Lord Cowper directs another precept to James Gilmore to pay the said sum; the woman not being paid, pursues both the Lord Cowper and James Gilmore for payment. It was alleged for James Gilmore, Absolvitor, because he had not accepted the precept, neither was there any ground alleged for which he was obliged to accept, or pay the Lord Cowper's precept.

Which the Lords found relevant.

*Stair, v. 1. p. 428.*

1667. July 2. SINCLAIR *against* COUPER.

## No. 4.

A disposition of lands found imported by an assignation to the mails and duties in all time coming.

An assignation being made to mails and duties of a tenement of land, for the year in which it was granted, and in time coming without limitation, the Lords found, That the heir of the cedent ought to give a formal and valid disposition of the land, whereupon the assignee may be infest; seeing, otherwise, he could not be secure as to a perpetual right to mails and duties against a singular successor; et concessio jure conceduntur omnia sine quibus explicari non potest.

*Dirleton, No. 89. p. 37.*

\* \* Stair reports this case:

Umquhile Mr. John Rae having two sisters, and heirs portioners, the one married to Robert St. Clair, and the other to umquhile Alexander Cowper, the said Alexander and his spouse, as heir portioner, assigns to Robert St. Clair a number of her brother's bonds, and likewise, as heir, assigns him to the mails and duties of a tenement of Mr. John's, for such terms, and in time coming. Sir John St.