

to be made use of against Graham of Hiltoun, who was to have uplifted an imposition upon the shire for public use, within the bounds assigned to him, to be uplifted by a division made amongst the heritors ; and which being uplifted, and therewith payment made to Mr Andrew Oswald of another sum, for which the said heritors granted bond, at or about the time of this assignation ; and, for instructing thereof, adduced an Act of Parliament appointing the shire to be stented for the said other bond, granted to Mr Andrew in stead of this bond, with several acts of the committees of the shires thereanent : And several witnesses being examined *ex officio*; and the said Mr Andrew Oswald, the cedent ; and that the blank assignation remained in Carden's hand, during his life, and, after his decease, in Glorrat's hand during his life, and thereafter in this Glorrat's hand, without filling up the name of the assignee, or any thing done thereupon ; being considered ;—the Lords found the writs, oaths, and evidences adduced, proved sufficiently, that the assignation was to the behoof and intent foresaid, and that the said intent now ceasing, they declared the bond void and null.

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1672. *January 10.* PITFERREN *against* CAPTAIN HAMILTON.

PITFERREN and ———, — having right to the imposition for the light of the May, which right is ratified by an unprinted Act of Parliament 1661, appointing three shillings Scots for every ton of ships belonging to strangers, and one shilling six pennies Scots for the ton of every ship belonging to natives, to be paid by the masters, sailors, or others having interest,—pursues Captain Hamilton for the same, as due by a frigate whereof he was captain ; who alleged, That he, not being master, was not liable by the said Act. *2do.* That vessels for war, by the king's commission, were not liable for custom, excise, or any public dues, but did pay the tenth and fifteenth parts to the king and admiral for all. The Lords repelled both the allegeances, in respect that the Act was general, without distinction, and the privateers enjoyed the benefit of the light of the May as well as others ; and this being the right of a private party, instituted for a very necessary common good, the tenth and fifteenth penny did not take it off.

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1672. *January 12.* JOHN KELSO and OTHERS *against* The LAIRD of BISHOPTOUN.

ROBERT Kelso having infest his eldest son John in his lands of Kelsoland, he and John dispone the lands to Bishoptoun, who granted bond for the price, to pay such sums expressed, the most part whereof were such as John was cautioner [for,] for his father : Many other of Robert's creditors being left out, did arrest in Bishoptoun's hand ; and he suspending on double poinding, they alleged, That Robert Kelso, having disposed *in meditatione fugæ*, and becoming thereby a bankrupt, could not prefer one of his creditors to another, but according to their diligence ; and so could not prefer those in which his son was cautioner to the