

for which they were granted should cease. *July 16, 1678, Wier against the Earl of Callender*, and in the case of the *Earl of Wintoun against the Lord Pitmedden*.

The Lords found, that Sir Robert Forbes's assignation to Sir Robert Sinclair, of the fee and pension libelled, did entitle the assignee to it, not only during the cedent's possession by virtue of the gift on Sir Archibald Sinclair's demission, but also during the cedent's enjoyment of the office by the new gift from the Duke of Lennox : because the first gift, which Sir Archibald Sinclair was not bound to warrant, being only *durante beneplacito*, and the assignment to the pension not expressly restricted to the time that the cedent enjoyed the office by virtue thereof ; it is understood to be effectual, so long as he enjoyed the said office *quocunque titulo*.

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1711. *June 15.* JOHN EWING, Writer to the Signet, *against* WILLIAM ROWAN, Merchant in Greenock.

JOHN EWING, husband to Margaret Rowan, heir of tailyie and provision to John Rowan of Bedland, her father ; having, as assignee to several moveable debts owing by John Rowan, pursued William Rowan for payment, upon the passive title of vitious intromission with John Rowan's moveable effects : the Lords found, that Margaret Rowan, being heir of tailyie to the debtor, the pursuer could not insist to make the defender liable *passivè*, but only *in valorem* of his intromission. Albeit an intromitter with a defunct's moveable effects, is universally liable to his creditors ; and the pursuer had action competent to him, for relief out of the defunct's executry.

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1711. *July 17.* The MAGISTRATES OF GLASGOW, and their STENT-MASTERS, *against* ROBERT SANDERS of Aldhouse, Printer in Glasgow.

KING CHARLES the Second, having, by his gift and patent under the great seal, May 12, 1671, granted to Andrew Anderson, his partners, substitutes, and assignees, the sole privilege of printing and causing to be printed and published, all manner of books, learned or vulgar, within Scotland, together with the direction and regulation of all other presses there, and an express immunity and exemption from taxations, stents, annuities, and impositions upon the said office or trade to him and his foresaids, for the space of forty-one years after his entry thereto : Andrew Anderson assumed four printers as his co-partners in the art of printing, and communicated to them the privilege of the gift. Robert Sanders

(who hath right by progress from one of these four partners, to an eighth part of the gift,) being charged by the Magistrates of Glasgow and their stent-masters, for payment of his proportion of stent for his trade; he suspended upon this ground, that the assignment in his favours did entitle him to an exemption from stent. But the Lords found, that transferring a share of the gift by progress to the suspender, did not transfer to him an immunity from public burdens. Seeing the heir of Andrew Anderson and his other partners do still claim to enjoy the same immunity and exemption. And albeit the sovereign hath power to name one of every employment to be his own servant therein, with special immunities and exemptions to that person, and such partners as he should assume; it were absurd to think, that that gift might be divided and subdivided *in infinitum*, or in so many parts as would turn the privilege to be universal. Andrew Anderson, or his partners, might indeed denude themselves, by assigning their share of the gift and privilege to another, who comes in their place; but could not both give away and retain the same privilege. *Dans et retinens nihil dat.*

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1711. *July 17.* The MAGISTRATES OF EDINBURGH, *against* The COUNTRY BREWERS AND HERITORS of the Shire of Edinburgh.

THE Magistrates of Edinburgh obtained a charter under the great seal, in the year 1603, granting to the good town the privilege of exacting a petty custom of eight pennies for each load, and four pennies for each burden of ale, coming in at the ports; when the ordinary way of importing ale to the town, was either by loads on horseback, consisting of two four-gallon barrels on hough-hams, or burdens on men's backs. In anno 1636, the town obtained another charter confirming the small customs, and all rights and privileges they were in possession of; and their whole charters and privileges were ratified in the Parliament 1661. The country brewers having fallen upon another method of bringing in their ale and beer to the town upon carts, sleds, slips, and otherways; the Magistrates and town-council altered their manner of exacting and uplifting the said custom or causey-mail; and by their act in January last, appointed their tacksmen to collect and exact for each cart-draught of ale two shillings Scots, and for each nine-gallon-tree brought in upon sleds, slips, or otherways, from any place without the town's privileges, eight pennies, and proportionably for greater or lesser quantities.

The country brewers suspended the act, upon this ground, that the magistrates of burghs could not at their own hand impose or exact any new stents, without being liable to be convened as oppressors of the lieges. Act 4. Parl. 4. James IV. Act 54. Parl. 11. James VI. And they had no warrant for exacting the said imposition: for any grant in a charter, not conform to former right is null. Besides, the imposition quarrelled is disconform to the charter 1603, which lays the custom upon the load and burden, without distinction of greater or lesser: whereas this imposition is upon the quantity of the liquor; [and] rising in proportion to it, turns a downright excise. No regard to the charter 1636, in respect that confirms only to the town the impositions they were in possession of; and they must prove