

sasine might be good against the granter, yet it could not be good against singular successors deriving right from him even after the precept and sasine upon it, and that Skirvane was in this case preferable to Dunadd though he purchased from the granter of that precept more than 20 years after; which appeared to me very singular, and therefore it is I mark it. But the Court was of a different opinion and preferred Dunadd.

No. 14. 1753, Aug. 10. ANGUS AND JEAN BRODIE *against* J. STEPHEN.

THESE Brodies complained to us, that after they were decerned executors *qua* nearest of kin, Mr Stephen, Commissary-Depute of Murray, refuses to expedite the confirmation unless a party would make oath and confirm the whole inventory; but on serving the complaint they compromised. He confirmed the testament, and they passed from the complaint, except as to their expenses: But as he refused to pay them, they served the complaint again, which forced him to put in answers, wherein he justified his former refusal, on pretence of the interest and security of creditors, whereof he himself was in this case one. But the Court found that he had done wrong in refusing confirmation, and therefore found him liable in expenses

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SERVICE OF HEIRS.

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No. 1. 1736, Jan. 8. COLONEL ERSKINE *against* SIR J. BLACKADDER.

THE Lords found the proof for Colonel Erskine more pregnant for proving that the defender is not grandson to Sir John Blackadder of Tulliallan, than the defender's proof that he is his grandson, and therefore reduced the defender's service. In the same cause one John Blackadder was found a false and perjured witness, and ordained to be imprisoned till the 21st instant, and then to be carried to the Cross with a paper-hat with the inscription, "John Blackadder, for the crime of perjury;" and his ear to be nailed to a post for an hour, and then to be dismissed; and the Magistrates ordained to see the sentence put in execution; and he was further declared infamous, and his moveables escheated to his Majesty's use.

No. 2. 1738, July 21. EDGAR *against* MAXWELL.

See the Note of this case, No. 6, *voce* SERVICE AND CONFIRMATION.

No. 3. 1742, Feb. 5. THE CREDITORS OF BIRKHILL *against* THE HEIRS OF MR GEORGE AYTON.

THE Lords sustained both defences: The first, on the exheredation or exclusion, in respect the next heir after her was expressly called. 2dly, The negative prescription both of 20 and 40 years; for we thought the service not *ipso jure* null.