

April 1. 1824. conclusion is irresistible, that the interlocutors of the Court below are well founded.

In conclusion, my Lords, considering the nature of these actions, the long protracted litigation to which the learned Judge has been exposed, and that this is the first attempt to subject the conduct of any Judge to such a scrutiny at the suit of a private party, I am farther of opinion, that we would not do justice to the eminent character who has now been made to appear as respondent, if we did not order those interlocutors to be affirmed, with costs.

Appellants' Authorities.—Anderson, Jan. 3. 1750, (13,949.); 4. Stair, 1. 6.; 1537, ch. 36.; 1. Ersk. 3. 9.

Respondent's Authorities.—Instruct. to Commissaries, 1563, § 8.; Balfour, 657.; Spott. Pract. Preface; Comyn's Dig. Tit. Action on the Case for a Conspiracy, B; 1. Hawkins, 72. 6.; 1. Robert I. ch. 31.; 1469, ch. 20.; 1487, ch. 12.; 1540, ch. 104.; 4. Stair, 1. 6. 24, 25, 26.; 6. Anne, ch. 6. § 1.

J. RICHARDSON—SPOTTISWOODE and ROBERTSON,—Solicitors.

(*Ap. Ca. No. 25.*)

No. 20. JOHN INNES, R. B. ALLARDYCE, and Others, Appellants.—
Fullerton.

SIR ALEXANDER KEITH, Respondent.—*Murray.*

April 6. 1824.

1ST DIVISION.
Lord Succoth.

Commonty.—This was a question as to whether the Common or Forest of Cowie, situated in Kincardineshire, belonged to the respondent in property, subject to rights of servitude in favour of the appellants? or whether it belonged to them in common property? The decision of the case depended upon a series of complicated titles, and a long parole proof, on advising which, the Court, on report of the Lord Ordinary, found, 'that the whole of the forest, muir, and commonty of Cowie, belongs in property to Sir Alexander Keith of Dunottar, subject to the rights of servitude, and others, which the other heritors may be able to instruct over the same.' And to this interlocutor they adhered on the 3d of February 1818. The House of Lords 'ordered and adjudged, that the appeal be dismissed, and the interlocutors complained of affirmed.'

J. DUTHIE—J. RICHARDSON,—Solicitors.

(*Ap. Ca. No. 27.*)