

- No. 21. father, &c. *3tio*, If the inquest, without incurring the hazard of perjury, might serve him heir in lands, whereof the Marquis instructed him or his authors denuded; (it is true, not indeed by a voluntary disposition, but by a legal diligence of comprising, which is not yet expired, albeit they were willing to mention it in the service.) The Lords shunning all these difficult locks, and waving the decision of these points, “declared they would sustain Strouan’s general service as a sufficient title in the reduction, and in the mean time stopped the special service;” by which Athol got this advantage, that he *medio tempore* might obtain a gift of the non-entry and other casualties of that piece of land. See Craig, p. 382, sasines are not 200 or 300 years old with us; yet, in Cap. 2. of King Malcolm M’Kenneth, near 500 years before Craig wrote, charters and sasines are mentioned.

Fountainhall, v. 1. p. 104, 112, 133.

1129. *January.* LORD HALKERTON *against* DRUMMOND.

No. 22.

A GENERAL service does not carry even the personal obligation in an infeftment of annual-rent, so as to be a title to demand payment, which the heir cannot insist for until he be also infeft. See APPENDIX.

Fol. Dic. v. 2. p. 371.

1738. *July 21.* EDGAR *against* JOHNSTON.

No. 23.

A SERVICE as heir-male general found not to carry a provision in a contract of marriage in favour of heirs-male of the marriage.

Kilkerran, No. 1. p. 508.

* * See No. 14. p. 14015.

1742. *July 21.* ALEXANDER STIRLING *against* JOHN CAMERON.

No. 24.

Whether an heir is to make up a title to a subject by a general or special service, in order to recover from the purchaser the surplus of

THE said Alexander Stirling being charged to enter heir in general to the deceased John Stirling, for payment of the debts due by him to his creditors, and having renounced, as judging the debts did exceed the value of the estate, the creditors thereupon obtained decreets *cognitionis causa* against Alexander, and adjudged the estate of John; and having obtained possession, they raised a process of ranking and sale, and when the day of the roup came, several offerers appeared, who offered a much higher price than what was put upon it by the Lords, and far exceeding the debts due to the creditors. John Cameron was pre-