

1550. December 17.

A. against B.

No 9.

ALL summoundis of teindis, possessioun being libellit as ane part of the patrimonie of the benefice, it is sufficient to produce inhibitioun for verifying of the titill.

*Balfour, (POSSESSION.) No 8. p. 149.*

1559. June 27.

ALEXANDER FORBES of Pitsligo against ALEXANDER LESLIE of Wardis.

No 10.

Of possession of the servitude of casting of fuel.

GIF ony man callis and persewis ane uther for casting, leiding, or away-taking of peittis, or ony uther fewall, off ony landis or ground pertening to him in heritage, and the defendar alledge, that albeit he had castin and intromettit with the samin, he did na wrang, because he and his tenentis had bene of befoir, and zit is in possessioun of the samin ground, as part and pertinentis of uther landis pertening to him in heritage and devydit fra the persewaris landis be ane certane marche, be pasturing of gudis thairupon, and winning of fewall, and pointing of utheris coming thairon; the samin is relevant of the law, and a certane terme is assignit to baith the parties, viz. to the persewar for proving of his summoundis, and to the defender for proving of his allegeance.

*Balfour, (POSSESSION.) No 7. p. 149.*

1623, July 19.

MAXWELL against L. WESTRAW.

No 11.

Possession by a person forfeited.

IT was found by the LORDS in an action of removing, pursued at the instance of James Maxwell, donatar to the forfeiture of the last Lo. Maxwell, and who thereby was infest in certain of his lands, against the L. Westraw, that the trial prescribed by the act of Parliament in August 1584, anent the forfeited persons being in possession of the lands disposed by the King, by the space of five years, might be deduced when litiscontestation was made in the cause; and that such trials and precognitions needed not to precede the intending of the action.

Act. Hope & Cunninghame.

Alt. Nicolson & Oliphant.

Clerk, Gibson.

*Durie, p. 74.*

1623. December 6.

— against CARMICHAEL.

No 12.

Possession of a part of lands held *pro indiviso*.

In an action pursued at the instance of ———— *contra* Carmichael of Pot-tishaw, to find caution to pay the duties contained in the tack set to him of an