

DISCLAMATION

1582. February. PATRICK M. against HENRY M.

PATRICK M. and M. his spouse, persewit Mr Henrie M. to produce his evidents and holdings of the lands of _____, alleged to be holden be him of them as his immediate lawful superiours, to the effect, they might see what duty appertained to them as superiours of the same lands. It was *answerit* be Mr Henrie, That he aucht not to do the same, except they wald affirm him to be their vassal and tenant, and wherefore sould he be bund and obleigit to produce to the superior, that wald not acknowledge him his tenant and vassal. It was *answerit*, That he could not affirm to be vassal or do any uther thing before the production, and so he behovit aither to produce and show his haldings, or else to mak disclamation; the whilk was fund so be the LORDS.

Fol. Dic. v. 1. p. 245. Colvil, MS. p. 354.

1605. June 15. DALZIELL against DREGHORN.

IN an action betwixt Dalziell and Dreghorn, for showing of the vassal's evidents to the superiour, it was *alleged* be the vassal, That the persewar could have na process, while he shew whair he was superiour, or infest in the lands. It was *answered*, That he could not misknow his superiour; and gif he wald, the persewar sould be content that the defender wald deny that he was his superiour and disclaim him. THE LORDS fand be interlocutor, that the persewar behoved to show whair he was infest in the lands or in the barony, whereof he alleged the lands to be pertinents, before the vassal was compelled to answer.

Fol. Dic. v. 1. p. 245. Haddington, MS. No 819.

No 1.

A superior pursuing for production of the vassal's evidents and holdings, need not affirm him to be his vassal before production, but the vassal must either produce or disclaim.

No 2.

A party who, pretending to be superior of lands, pursues another as his vassal, for producing his holding, must produce his own sasine of the lands, before the defender can be compelled either to produce or disclaim.