

No 4. *ed*, That his assignation was null, because it was granted to him in *anno* 1618, whereof he never made intimation, obtained possession nor letters conform, but the cedent retained possession three years after the assignation, to the time of his decease; and therefore the assignation was simulate and null, proceeding from him *qui dedit et retinuit*.

Haddington, MS. No 2640.

1623. February 27. PAIP against L. WOLMET.

No 5.

IN an action of suspension betwixt Mr John Paip and the L. of Wolmet, for payment of a pension of diverse loads of coals given to Mr John Paip; the LORDS found, that the granter of the pension, nor his heirs, were not obliged to carry the coals to the dwelling-house of the pensioner, where the pension bore not the same *specific*; but that it was sufficient to the granter of the pension, and his successors, addebted therein, to deliver the same at the coal-hill to the pensioner, to be transported upon his own charges where he pleased to carry the same; and that sicklike in other pensions of that nature and quality, as of victual, that the pensioner ought to carry the same from the barn door and ground of the land upon his own expenses, and that the granter is not obliged in the said carriage, except the pension be so expressly granted, and no otherways.

Act. *McGill*.

Alt. ———.

Clerk, *Hay*.

Fol. Dic. v. 2. p. 56. Durie, p. 537.

* * * Haddington reports this case :

1623. February 28.—MR JOHN PAIP having a pension of four bolls meal, and two dozen loads coals, to be paid to him yearly by the Goodman of the Wolmet, pursued him to lay them in to him in his house in Edinburgh. Wolmet *alleged*, That he should not carry them, but only pay them. THE LORDS found, that since he was only bound to pay them, he could not be compelled to lay them in, but only pay them on the coal-hill.

Haddington, MS. No 2793.

No 6.

A prelate granted a pension out of his patrimony, not only *cum potestate transferendi etiam*

1625. July 23. MINISTER of KIRKLISTON against WHITELAW.

IN an action betwixt the Minister of Kirkliston and Patrick Whitelaw, a pension being granted by the umquhile Bishop of St Andrew's to Mr John Arthur, Commissary of Edinburgh, *cum potestate transferendi etiam in articulo mortis*, with power also to that assignee, to transfer the same at any time, be-