

1627. December 5. ROLLOCK *against* CORSBIES.

A CAUTIONER for a curator was not allowed to plead, That the curator had no right, by reason of a prior act of curatory standing unreduced; in respect neither the curator nor his cautioner could impugn their own deed, and the pursuit was for a sum intromitted with by the curator upon that title.

Fol. Dic. v. 2. p. 81. Durie.

* * This case is No 6. p. 2074. *voce* CAUTIONER.

No 5.

1629. July 24. LADY CATHCART *against* TENANTS and VASSALS.

THE Lady being donatrix to the ward, as is mentioned 7th July 1629, No 6. p. 4176. *voce* FEU; and the vassals to her husband *alleging*, That she was infeft in feu in some lands held of the King, which staid all ward; and she *replying*, That that infeftment was granted without her knowledge, and that her sasine thereon was not registrate, conform to the act of Parliament; the LORDS found, That that infeftment was not sufficient to exclude the ward, the sasine not being registrate as said is; and which nullity she might oppone against that right made to herself; seeing she clad not herself with that right, but with the right of ward, and which she might as validly take as any other; for if a third person had obtained the ward, that sasine not registrate would not have stopped the same; no more could it be obruded against her, but she might likewise propone the said nullity.

Fol. Dic. v. 2. p. 81. Durie, p. 467.

No 6.

1631. February 18. LORD CRANSTON *against* SCOT.

IN a déclarator of liferent-escheat at the superior's instance against his vassal, a compriser from the vassal appeared for his interest, and *pleaded*, That there could be no liferent-escheat, in respect that the vassal's sasine was not registered; and, consequently, was null by act of Parliament. THE LORDS repelled the defence, seeing the defenders could not object the nullity of their own right.

Fol. Dic. v. 2. p. 81. Durie.

* * This case is No 30. p. 7801. *voce* JUS TERTII.

No 7.