

lands, they should be subject in payment to the pursuer : but that no execution should follow upon this declarator of the pursuer's right, by letters of horning or poinding, unless particular decreets were, in time coming, obtained against the tenants.

*2d MS. Page 16.*

1636. *March 2.* The EARL of TULLIEBARDEN *against* ALEXANDER FLEMING of MONES.

PATRICK, now Earl of Tulliebarden, assignee constituted by the deceased William, Earl of Tulliebarden, his brother, in and to the reversions granted by the vassals of Atholl, pursues Alexander Fleming of Mones, for exhibition of two contracts, containing the reversions of certain lands, wadset to the said Alexander, to the effect the pursuer might have the transumps of them. It was alleged by the defender, That no process could pass upon the assignation made to the pursuer, because the same is not registrate, conform to the Act of Parliament. To the which it was replied, That the foresaid allegiance ought to be repelled, in respect of the disposition produced, made by the deceased William Earl of Tulliebarden to the pursuer, of the hail earldom of Atholl, containing a procuratory of resignation and an assignation to all reversions ; which disposition, whether registrate or unregistrate, is sufficient to the pursuer to crave exhibition of the contracts containing the reversions ; specially against the defender, granter of the said reversions, who had no other right to the wadset lands but proceeding upon the said contracts, containing the reversions ; and no other assignee, except the pursuer, pretends right to the said reversions. The Lords repelled the allegiance, and decerned exhibition.

*2d MS. Page 81.*

1636. *March 10.* LADY DONYPACE *against* The LAIRD of LOWRIESTOUN and SIR JOHN CARNEGIE.

WHERE lands are disponed in liferent to a woman, and the disponer is obliged to warrant the lands to be worth so much in rental,—if the lands fail afterwards, and the disponer be pursued for warrandice of the rental contained in the disposition ; if he be able to prove that the lands paid that duty ten years before the disposition, and divers years after the same, he will be absolved from the warrandice.

*2d MS. Page 218.*

1636. *March 15.* MARGARET SCOTT *against* ELIOT of STOBS.

MARGARET Scott, having comprised from Archibald Eliot, son to Gilbert Eliot of Burgh, the lands of Over and Nether Jedburgh, charges Gilbert Eliot of Stobs, superior of the said comprised lands, to infest her, conform to her comprising. The superior suspends : The first reason is, that the superior was infest in the