

Farther ALLEGED for Alexander and Patrick Cockburnes, who have a right of wadset in the said lands,—That they cannot be liable but since the years of their possession, which began in July 1653; because the foresaid teind or valued duty is not *debitum fundi*, but the possessors are only liable for the same.

Which allegeances the Lords found relevant; and therefore found the said Alexander and Patrick Cockburnes only liable for the foresaid valued teind duty, and silver duty, the crop and year of God 1653, and since syne.

*Advocates' MS. folio 61.*

1668. *July 24.* ALEXANDER RITCHIE *against* GEORGE WAUCHOP of Gleghornie.

ALEX. RITCHIE, son, and heir served and retoured, to umquhile Mr. James Ritchie, his father, pursues for pointing of the ground of the lands of Cleghornie, upon an heritable bond, containing the sum of 12,000 merks, and infestment taken thereupon.

Against which, it was ALLEGED,—That no process ought to be granted upon the heritable bond, till the pursuer deliver and procure to the defender a disposition from Doctor Jo. Levingstone to the teinds of Gleghornie, conform to a minute of contract past betwixt the pursuer's father and the defender, and which was partly the onerous cause for which the said bond and infestment was granted.

ANSWERED and REPLIED,—The foresaid allegeance was not relevant *hoc loco*, but the defender must pursue the minor and his tutors; who cannot be holden to fulfill that part of the foresaid minute, anent the said teinds of Cleghornie, until decret be recovered against them therefore: especially considering that the price allowed for the said teinds is a very small part of this principal sum of 12,000 merks, specified in this heritable bond, and which hail sum lies in the defender's hands; and therefore he cannot, upon that pretence, stop now the pursuer, who only craves pointing of the ground for his annualrents.

The Lords repelled the allegeance, in respect of the answer and reply made thereto, and therefore decerned.

Vide *infra*, *Jan. 1676*, No. 456; [thir same parties.]

*Advocates' MS. folio 62.*

1669. *February 11.* JANET SHAW *against* MARGARET CALDERWOOD, relict of George Shaw.

IN the action of reduction, pursued by Janet Shaw, heir served and retoured to Charles Shaw, who was son and heir served and retoured to umquhile George Shaw, against Margaret Calderwood, relict of the said George Shaw, to exhibit a disposition of the liferent of certain tenements of lands lying in Leith Wynd, made to her by the said George, to be reduced, *Imo*, because all dispositions made by persons on death-bed, and after they have contracted a mortal disease, and whereof they never recovered but die, in favours of any, in prejudice of the immediate