

1680. *July 6.* ANENT the KING'S SERVICE as HEIR to his COUSIN the DUKE of LENNOX.

THE King's Majesty was this day served heir in special to the late Duke of Lennox, his cousin. The fourteen eldest Lords of Session were the members of inquest, and the Lord Chancellor was chancellor to the assize. The four macers were judges. This was done to make a right and conveyance of that estate (whereof there was not much left) to his natural son Don Carlos. See Craig, *p.* 101, where he tells King James succeeded to the Duke of Lennox at this time.

Some called this service ridiculous and unnecessary, and thought the *jus coronæ* supplied all thir solemnities in the King's person. *Vol. I. Page 106.*

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1678, and 1680. RALPH WILLIAMSON and MARY RAMSAY, his Spouse, *against* GEORGE CLAPPERTON of WYLIECLEUGH.

1678. *July 25.*—RALPH Williamson and Mary Ramsay, his spouse, against George Clapperton of Wyliecleugh, for reducing a decret obtained by him in Feb. 1667 against them and Hopepringle of Torsonce, finding Torsonce's comprising satisfied by sale of lands, as it was prorogated by Act 62, Parl. 1661, and ordaining them to renounce in favours of Clapperton, who had right to the second apprising led by Kinnier of Forret, as if it had been the first.

The reasons of reduction were, *1mo*, Because any intromission from 1657, in which Torsonce's apprising expired by the law then standing, and 1661, to which, by a supervenient Act it was prorogated, were all *fructus bonæ fide consumpti*; and so could never extinguish the comprising *ex post facto*. *2do*, The 11000 merks paid by George Ramsay to Torsonce could not in law be ascribed in satisfaction of the comprising, because not paid after the legal, and not by him against whom the apprising was led, but by George *tanquam quilibet*. *3tio*, Clapperton took a wadset of Wyliecleugh from Torsonce with absolute warrantice, for 18,000 merks: he did thereby homologate George's right, and was *in pessima fide* to acquire a posterior apprising in prejudice thereof. *4to*, Though Kinnier's apprising be prior to Torsonce's, and both being prorogated by Act 1661, and the pursuers having right to Torsonce's, and being then and yet still minors, at least within twenty-five, they offer to purge and redeem Kinnier's apprising; and though this was refused in the former decret, yet it was then only repelled for not production of Torsonce's apprising, which is now produced.

The defender opposed his decret, wherein all this was proponed and repelled.

Glendoick, Register, having reported this, the Lords repelled all the reasons of reduction, except the minority; as to which ordained them to be heard, If, the legal not being run in regard of minority, the minor may not yet purge at the bar.

In this cause it was alleged against the taking a term, that the pursuers, being strangers, behoved to find caution.