the church, whither he had not freedom to go, but should be remitted to the meeting-house.

The Lords repelled his reason of suspension, and ordained him to satisfy in the church. *Vol. I. Page* 506.

1688. *June* 12. MARGARET SETON *against* MARGARET CRAIG.

THE case of Margaret Seton against Margaret Craig, being advised, the Lords found Craig's uplifting the annualrents of her brother's part of the sum, in the town of Mussleburgh's hands, did not infer a general passive title against her, as heir to her brother, but only *quoad valorem*, for restitution, and for affecting her brother's part, seeing she had a probable ground.

Vol. I. Page 506.

1687 *and* 1688. RICHARD CUNNINGHAM *against* The DUKE and DUCHESS of HAMILTON.

See the first part of the Report of this case, Dictionary, page 12,328.

1687. *July* 14.—IN Richard Cunningham's case against the Duke and Duchess of Hamilton, mentioned 18th March 1686:—it was ALLEGED,—This being a debt of Duke James's in 1637, and the present Duchess, his daughter, having the estate, not as heir of line to him, but as heir of tailyie to Duke William, her uncle,—his heirs of line must be first called, and discussed; seeing they condescended on a subject of discussion, *viz.* the Lady Southesk is infeft as heir served to Duke William, her father, in the barony of Innerwick.

ANSWERED,—This is a dilator defence after peremptors of payment were proponed, and after acts, commissions, and reports in the cause, and witnesses led on presumptions of payment.

REPLIED,—It was already proponed, but received no answer; and so, not being repelled, is yet entire; and the acts are only before answer. And whereas it is alleged, that it is needless to call the Lady Southesk, seeing she will allege that the heirs of line of Duke James are bound to relieve her; it is answered, —There is another daughter of James's yet uncalled, *viz.* the Lady Cassilis: and the Lords found co-heirs behoved to be called, Stair, *24th January* 1672, *Laird of Lusse*, where they would not so much as allow the heir of line to be called *incidenter* in the same process.

The Lords here found the heirs of line to Duke William behoved to be both called and discussed, ere the present Duchess (who is heir of tailyie,) be obliged to answer; but allowed an incident diligence for citing them in this same action, in regard that defence got no answer before by the act. *Vide* 13th June 1688. *Vol. I. Page* 466.

1688. *February* 24.—Richard Cunninghame's action against D. Hamilton being called; the Duke craved that Sir John Dalrymple, who was not yet ad-