

No 16.
Found in
conformity
with No 14.
p. 1289.

1679. January 24. HAMILTON against SETON of GAIRLETOUN.

IN a competition betwixt these parties, both being infest in annualrents out of some tenements in Prestoun, Archibald Hamilton craved preference, because he was first infest. It was *answered* for Gairletoun, That Archibald's infestment was base, not clad with possession, until his infestment was public by confirmation. It was *replied*, That before Gairletoun's infestment was public, Hamilton had raised summons of pointing of the ground, and cited and insisted thereon, which hath ever been sustained as sufficient to validate a base infestment, where there is no suspicion of simulation, but a security for a true debt.

THE LORDS sustained the reply, and preferred Hamilton.

Fol. Dic. v. 1. p. 88. Stair, v. 2. p. 679.

No 17.
The citation
of a few ten-
ants was
found as suf-
ficient as if
the whole
had been cit-
ed, for all the
baronies con-
tained in a
base infest-
ment, though
distinct and
not united.

1691. December 9. Competition CREDITORS of LANGTON.

IN several cases in this competition, the citation of a few tenants was found as sufficient as if the whole had been cited, for all the baronies contained in the base infestment, though distinct and not united. *2dly*, That citations in pointing of the ground, *declaratorie*, before the term of payment, were orderly and not precipitate; and that a reserved clause of relief, upon a partial distress, made public by possession, &c. made the right public as to the whole, though the other distresses did not emerge till some time after; and though the execution and possession could only be according to the present distresses, and proportionally as they did emerge. This was not voted, but declared at pronouncing. See UNION.

Fol. Dic. v. 1. p. 88. Harcarse, No 626. p. 172.

No 18.
The bare exe-
cution of a
summons of
mails and du-
ties found suf-
ficient to
make a base
infestment
public.

1700. July 16. Competition CREDITORS of LANGTON.

RANKEILOR reported the competition betwixt Sir Robert Stuart of Allanbank, Lady Mary Kennedy, James Cockburn, and other creditors of Sir Alexander Cockburn of Lanton. *1mo*, It was *objected* against Sir Robert's right, that it was posterior to an inhibition served against Lanton by one Campbell. *Alleged*, Lanton was then denuded in favour of his son. *Answered*, He was retrocessed again, by which supervenient right the inhibition took place. *Replied*, The retrocession was qualified, that old Lanton might pay the debts for which his son stood bound with him, whereof Sir Robert's debt is one, and Campbell's is not, young Lanton not being an obligant in his bond. THE LORDS found inhibitions extended not only *ad acquisita*, to what stood in the debtor's person at the time of executing the inhibition, but likewise *ad acquirenda*, if it lay within the same shire where the inhibition was published, as has been oft decided: But found this was no