

No. 4. 1738, July 28. SCOTT *against* SCOTT.

See Note No. 2, *voce* FEU-DUTIES.

No. 5. 1741, June 9. SIR JOHN MAXWELL *against* M'MILLAN.

MR M'MILLAN purchased from the L. of Blair the superiority of Sir John Maxwell's lands, and having obtained a charter under the Great Seal split it among four different persons by assigning the precept in the charter, retaining a fourth himself; and thereon Sir John Maxwell brought a declarator that his superiority could not be divided; and the Lords unanimously found it could not.

No. 6. 1742, Feb. 27. STUART *against* MR DAVID COUPER.

See Note of No. 33, *voce* ADJUDICATION.

No. 7. 1742, June 23. DUNCAN *against* THE EARL OF ABERDEEN.

NOTWITHSTANDING the act of sederunt 1709 appointing resignation in burgh by staff and baston, yet in the town of Aberdeen from that time till 1722 there were 399 resignations by a penny utole agreeable to the *Leges Burgorum* 56, and only 16 agreeable to the act, and particularly one infestment of annualrent to which Duncan has right was by a penny utole; and therefore the question was, Whether to sustain this objection to annul Duncan's infestment? We delayed till the 25th that a decision quoted in 1729 concerning such a resignation in this burgh in 1718 should be laid before us. Accordingly, the 25th, the former interlocutor was laid before us, which was indeed in point, and more direct than was set furth in the papers. It was an annualrent right, and the symbols a penny utole in the year 1707; and therefore we adhered. (See Dict. No. 9. p. 14,316.)

No. 8. 1744, Feb. 24. SIR W. MONTGOMERY *against* J. WARDROPE.

THE pursuer, proprietor of a village, who had feued out some houses, without having the clause *cum brueriis* either in his own or his vassal's charters, afterwards got a charter erecting his village into a burgh of barony with a clause *cum brueriis*, and sued declarator against his vassal, that he could not brew without his licence. But we unanimously found he could brew without his licence, 10th February.

On the reclaiming bill against our interlocutor of the 10th, Arniston thought that a feu even *cum brueriis* of a part of a barony would not entitle him to free the rest of the barony, and seemed to think the clause *cum brueriis* not implied. But that first was not the question before us, but whether the defender had right to brew or not? This petition indeed insisted chiefly that the feu rights produced were not of the lands whereon the brewery was, which we refused, reserving to the pursuer to quarrel the defender's right to the lands as accords.

No. 9. 1748, Nov. 8. NASMITH of Ravenscraig *against* STORIE of Braco.

LANDS being first feued for a feu-duty of L.7, and thereafter that feu-duty afterwards disposed to be held blench for payment of 1d. and relieving the disponent of 45s. as part