ney and Zetland, parties differed as to the meaning of udal lands. It was said, on the part of the Heritors, that udal lands are allodial lands; that they are enjoyed by the proprietors of them *tanquam optimæ maximæ*, without their being obliged to acknowledge any superior; and that their right was simple and unburthened. On the other hand it was alleged, That although the lands called udal lands are held without writing, yet nevertheless they are feudal holdings, and are liable in payment of a yearly duty called *skat*. And, although in a late process between the Earl of Morton, and a number of those udallers, an attempt was made to show that this skat was a tax or tribute, and not a duty paid *in agnitionem dominii*, yet no such thing was made out to the conviction of the Court, and they were obliged to continue the payment of their skat as formerly, *in agnitionem dominii*. See also Bankton, V. I., p. 544; and Erskine, p. 186. See Craig also. And it is worthy of being remarked, that when any udaller obtains a charter in Exchequer, the skat payable by him is made his feu-duty.

But, in arguing this point upon the bench, the Lords seemed generally of opinion, that udal lands were allodial. Lord Hailes, in particular, was of this opinion, and derived the word from the two words *all* and *od*, signifying *plenum vel absolutum imperium*.

With respect to these lands, the Lords, 10th August 1776, found, "That those of them who chose to take written investitures, have it in their option to take the same from the Crown, or from Sir Laurence Dundas, as they shall think proper."

And, upon a reclaiming petition and answers, the Lords adhered.

1771. *July* 26. COPLAND of COLLISTON *against* FRASER of LAGGAN.

BY sundry decisions of the Court, this rule, in the case of non-entry, seems to be established, That, from the citation in a special declarator, the full maills and duties of the lands are exigible, unless the pursuer gives reason to lead the defender to suppose that he has deserted his claim by not following it out effectually, but being dilatory, and allowing the process to fall asleep.

A case of this kind occurred between Mr Spottiswood of Spottiswood and Mr Fraser of Laggan. Spottiswood pursued Laggan in a general declarator of non-entry, which contained also a special declarator and conclusion of maills and duties. (This therefore was a general and special declarator in one, which is very consistent.) But, during the dependance, he transferred his right to Mr Coltart of Areeming and Mr Copland of Colliston, after which the action was allowed to lie over for some years, and to fall asleep. It was afterwards wakened by Colliston, as sole pursuer, and the wakening executed 10th May 1770; and being insisted in, Lord Elliock, Ordinary, 23d November 1770, gave the full maills from the 20th May 1765, the date of the citation in the principal process. On a reclaiming petition, and answers, the Lords, 26th July 1771, in respect that the libel concluded for more than was found due, and that the process was allowed to lie over and fall asleep from 1765 to 1770, found that the pursuer had only right to the full maills and duties from the 23d

November 1770, the date of the Ordinary's interlocutor. But, on a second reclaiming petition, and answers, they gave them from the 10th May 1770, the date of citation in the summons of wakening.

This interlocutor was acquiesced in.

Several other decisions, at *Spottiswood's* instance against *Craick of Arbigland, Turner of Ardwall and Others*, were cited in this case, in which it had been found that maills and duties were due in the special declarator, from the citation.

SPOTTISWOOD *against* BURNET of CRAIGEND.

THE strongest of all these cases was betwixt Spottiswood and Burnet of Craigend. It was attended with several favourable circumstances; in so much, that, although the Lord Alemoor, Ordinary, 10th December 1761, found Spottiswood entitled to the superiority of Craigend, and that the lands were in non-entry, yet, on a reclaiming petition, and answers, the Lords, 14th July 1763, altered, and found, That Mr Burnet was entitled to hold his lands of Craigend of the Crown, and therefore assoilyied; and to this they again adhered 3d December thereafter.

But, on an appeal, the decree was reversed 22d March 1763; and a clause, as to the non-entry, was added in these words:—" But so as not to affect the respondent with any penalties on account of such non-entries, except from the commencement of the present action."

1772. *March* . BRODIE of BRODIE *against* SIR JOHN SINCLAIR.

THE superiority of the lands of Wester Brimms, in the county of Caithness, was acquired *anno* 1741, by the Lord Lyon, Brodie, who, upon his death, was succeeded by his son Alexander, both in his tailyied and unentailyied estate. On Alexander's death his succession divided: His entailed estate went to Brodie, now of Brodie, his heir male, and his unentailed estate to his sister, Mrs M'Leod, his heir of line. Of this last the superiority of Brimms was a part. But Mrs M'Leod renounced the succession; by which means the late Earl of Caithness, who had succeeded to the property of Brimms by decease of Lord Murkle, could not obtain an entry,—and neither could his superior, Sir John Sinclair, who succeeded to the Earl in virtue of a tailyie by his Lordship.

Sir John, having been advised to follow out the method prescribed by the Act 1474, raised a special charge, which he caused execute against both Mrs M'Leod and Brodie, to obtain themselves infeft as heirs in special to Alexander Brodie of Brodie, Lord Lyon, whereof one or other of them was in the right of apparency of the said superiority. And that, to the effect that they might be in a capacity to enter him as heir of tailyie in the property thereof, with certification of losing the superiority and whole casualties thereof during life; and