

1680. *November 18.* ROBERT STARK *against* THOMAS KINCAID.

No. 37.

The Lords sustained a general service as a sufficient title in a reduction to force the defender to produce his own and his author's infeftments, seeing the defunct was not infeft on the comprising.

*Fountainhall MS.*

1681. *January 28.* LAIRD of DUN *against* SCOT.

No. 38.

A declarator of recognition sustained at a donatar's instance, though having but a personal right, being founded upon the superior's right who was infeft.

*Fol. Dic. v. 2. p. 472.*

\* \* \* This case is No. 48. p. 9098. *voce* MINOR NON TENETUR, &c.

1681. *February 1.* DEWAR *against* DEWAR.

No. 39.

One served heir in general to his father, intents a reduction of a disposition made by his father on death-bed, of an infeftment of annual-rent in favours of his second son. Alleged, A general service was not a sufficient title whereon to reduce a disposition *in lecto* of an infeftment, without he were also infeft in these lands. This being reported, "the Lords found the general service enough without a special service or infeftment;" though the ground of the right quarrelled and craved to be reduced was a real right of lands; only the disposition which was immediately *in campo* was not a real right that in conveying it by succession needed a special service.

*Fountainhall, v. 1. p. 128.*

1681. *February 26.* The LAIRD of STROWAN *against* The MARQUISS of ATHOL.

No. 40.

Service of an heir in special lands found not to proceed on a sasine without warrant being in 1451, after the custom of sasines distinct from their warrants came in use.

Robertson of Strowan having pursued reduction and improbation of an apprising, and infeftment following thereupon, which apprising was led against William Robertson his grandsir,—the Lords found, that Strowan had not interest to reduce, or improve an apprising led against his fore-grandsir, unless he were served, and retoured heir to him; Strowan having raised briefes, for serving himself heir general and special to several of his predecessors, in the barony of Strowan, and specially in the lands contained in Athol's apprising. The Marquis of Athol supplicated the Lords to advocate the service from the Macers, at least to appoint assessors, because this service would lay a foundation, and was especially designed for