

1680. *June 26.*YOUNG *against* The LAIRD OF RAPLOCH.

ONE Young having a gift from the Duke of Hamilton, of the escheat of Gavin Hamilton of Raploch, as being denounced when he had his domicile within the regality of Hamilton, pursues declarator against Raploch and his debtors, who *alleged* absolutor, as to any goods or debts without the regality, because the Lord of the regality could not have right to them, but they would belong to the King and his donatar. It was *replied*, That all escheats of moveable goods, or sums, follow the person denounced and his domicile; and though such escheats upon the gifts of the Lords, or Bailies of regality, have been very frequently declared, yet without any restriction; nor was it ever found that two donatars were found to have right to the same sum, one by the King, and another by the Lord of regality.

THE LORDS found, that the escheat followed the domicile of the person denounced, and that the gift of the Lord of regality extended to all his goods and moveables whatsoever.

Fol. Dic. v. 1. p. 254. Stair, v. 2. p. 778.

No 26.

The escheat of a person denounced in the regality where he dwelt, was found to belong to the Lord of regality, and to include his moveables wherever situated.

S E C T. IV.

Liferent Escheat to Whom it falls.

1598. *February.* WILLIAM LESLIE *against* WILLIAM STEWART.

THIS was a declarator sought by Mr William Leslie of a liferent-tack of the lands set by the Earl of Murray to William Stewart of Seton, which lands were holden feu by the said Earl, of the Abbot of Lindores, to the which the said Mr William Leslie pretended right, as donatar to the King, of the liferent of the said William Stewart. It was *alleged*, That the said tack could not fall under his Highness's gift of liferent, because the said William was not his Highness's vassal. THE LORDS, at the report of the interlocutor, disputed very long and contentiously, whether, if a liferent tack fell in liferent, it should go to the setter, by the tacksman's remaining year and day at the horn, or to the King, or if it fell under single escheat to the King; because it was thought that liferent tacks might fall under single escheat; or, if they fell in liferent, they behoved to appertain to the King, because they were not heritable, nor holden

No 27.

Whether a liferent tack which falls under liferent, and not single escheat, goes to the King by escheat, or to the setter? Not decided.

No 27. of any other superior?—But after long contention, the matter was casten off to a Parliament or longer deliberation.

Fol. Dic. v. 1. p. 254. Haddington, MS. No 631.

No 28. 1615. July 27. KINROSS *against* DRUMMOND.

IN an action pursued by Mr Henry Kinross against James Drummond, the LORDS found, That an office of Sheriff-clerkship fell in the King's hands, by rebellion of the said James.

Fol. Dic. v. 1. p. 254. Kerse, MS. fol. 219.

No 29. 1622. July 12. MAXWELL and GORDON *against* LAIRD of LOCHINVAR.

FOUND that a liferent of a Lady tercer pertains to the superior by her rebellion, albeit she had the terce by consent of party, and was never served nor kend to a terce.

Fol. Dic. v. 1. p. 254. Kerse, MS. fol. 221.

1622. December 20. HAMILTON *against* BRUCE.

No 30.
The liferent
escheat of an
apparent heir,
whose prede-
cessor died
infest in the
lands, falls to
the superior
of the lands.
See No 33.
p. 3638.

CLAUD HAMILTON and Matthew Hamilton, brother to Cochno, pursued for declarator of Alexander Bruce's liferent, of lands holden by him of Cochno; whereof Cochno had made the pursuer donatar. THE LORDS found, that not only the liferent of lands wherein the vassal was infest, but also wherein he had right to have been infest, and to have entered himself to by decease of his predecessor, to whom he might have been heir, pertained to his superior after the said apparent vassal's remaining year and day at the horn.

Fol. Dic. v. 1. p. 254. Haddington, MS. No 2715.

No 31. 1623. March 21. CUNNINGHAM *against* E. GLENCAIRN.

IN an action pursued by the L. Cunningham-head, assignee to the Lo. Kilmaers *contra* E. of Glencairn, upon a contract, whereby the E. sold to the Lo. Kilmaers certain lands, and obliged him to procure and deliver the renunciation of certain persons, who had wadsets of the saids lands; whereupon the Lo. Kilmaers charging, and the E. suspending, and finding caution the time of the suspension; the matter lying over suspended, he makes thereafter one assignee to the contract; who seeking transferring of that suspension, and act of caution