

PRINCE OF SCOTLAND.

1537. *February 4.* The KING *against* Laird of CALDERWOOD.

No 11.

LANDIS pertening to the Prince of Scotland, and beand annex to the principality, may not be set in feu-ferme, nor annalzeit, without consent of the Prince. And gif the King dispones the samen landis, makand na mention in his disposition that he disponit them as Prince, the infestment, alienation, or disposition, is of nane avail and may be reducit.

Balfour, (KING'S PATRIMONY.) p. 134.

1608. *June 16.* JOHNSTON *against* RICCARTON.

No 2.

MR JOHN JOHNSTON, donatar to the non-entries of the lands of Malcomstoun, pursued Alexander Hepburn, now of Riccarton, to hear and see the said lands decerned in non-entry. It was *excepted*, That the desire of the summons could not be granted to this pursuer, because the non-entries of the saids lands were granted long before the pursuer's gift to ——— Futhie, who constituted Henry Wardlaw assignee to it, from whom Mr David Wardlaw had right, who disposed it to umquhile Archibald Hepburn, eldest brother to this defender, to whom he was heir. It was *replied*, That allegiance was not relevant; because this pursuer had intented foresaid declarator. The defender *answered*, That no declarator was necessary; because Malcolmstoun was the heritage of the house of Riccarton, and produced a practick, whereupon it was found in favour of John Logan of Couston, that a declarator was not necessary when the gift was granted to the heritable proprietor. It was farther *replied* by the pursuer, That Futhie's gift was null, because it was given by the King, the lands being holden of the Prince. The defender *answered*, That it was given *in anno* 1585, when the King himself was Prince; and so being given by him who had power, was sufficient. It was *answered* to this, That albeit the King was then

A gift of non-entry, relative to the principality, granted by the King, without mentioning that he acted as Prince, found null.

- No 2. Prince, yet he should have designed himself Prince in the gift, and given it as Prince, otherwise it was null, as breeding confusion of the King's lands and the lands of the principality; and produced a practick of reduction of the retour of the lands of Laurieston *in anno 1511*, because they were retoured holden of the King, they being lands of the principality, albeit the King was then Prince. THE LORDS, considering that Alexander Hepburn, and Archibald his brother, were never proprietors of the lands, and had no declarator, and that the lands being held of the Prince, their gift was not given by the King as Prince, the LORDS repelled the exception in respect of the replies.

Fol. Dic. v. 2. p. 166. Haddington, MS. No 1461.

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- No 3. 1626. July 14. HAMILTON *against* VASSALS OF BARGENY.

WHEN there is a Prince existing, a disposition from the King of principality lands, must expressly bear the King's title as administrator to the Prince, otherwise the disposition is null.

Fol. Dic. v. 2. p. 166. Durie.

* * * This case is No 19. p. 6622. *voce* IMPROBATION.

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- No 4. 1680. January 9. PURVES-*against* Ld LUSS.

THE principality of Scotland, which belongs to the King's eldest son, belongs to the King himself *jure proprio* while there is no Prince existing, and not as administrator for an heir *in spe*.

Fol. Dic. v. 2. p. 165. Stair.

* * * This case is No 40. p. 8542. *voce* MARRIAGE, AVAIL OF.