

No 8.

*hic inducit aliam personam*, for he bruiked the lands *aliter* as wardatar *regi*, et *aliter* as Lord Glamis. THE LORDS, after long reasoning, repelled the allegiance of the defender, and remitted the summons and reply to probation, in respect of the ward disposed to the said Lord.

*Fol. Dic. v. I. p. 514. Colvil, MS. p. 302.*

1611. July 5.

JAMES SKENE.

No 9.

A Lady's liferent found not to accresce as *jus superveniens* to a donatar of escheat.

JAMES SKENE, donatar to the Earl of Athole's escheat and liferent, seeking declarator thereof, and of the old Countess of Athole's liferent, to the which the said Earl had right, contending in the particular declarator for the mails and duties of diverse lands, against some gentlemen who were infest, they excepted upon their heritable infestments granted to them in anno 1584; which was taken away by reply, that the Countess was infest in conjunct fee holden of the King in anno 1579. They *duplicated*, That the Earl, who as heir to his father, being obliged to warrant them, had obtained the right of my Lady's liferent, and so *jus superveniens emptori*, behoved to accresce to them, and corroborate their right. To this was *answered*, That this right could not accresce to them, because before the Earl was found heir to his father, and so long before he could have been obliged to warrant them, his liferent and escheat had fallen in the King's hand; and, by that means, the liferent of the Countess falling to his Majesty's donatar, the Earl was denuded of that right before he was heir; and so, in respect of that mid-impediment which denuded the Earl of the right of the Countess her liferent, before her was that person who, as heir, might have been obliged to warrant those who were infest before his father, he had not the benefit of the Countess' liferent to transfer in these vassals. In respect whereof, the LORDS repelled the exception. In that same cause, Lethentie and Fardill *alleging*, That their infestments were confirmed by the King, with a clause *de novodamus*, of all right the King had, by reason of forfeiture, recognition, escheat, liferent, &c.; and so having the right of the liferent of these lands disposed to them long before the donatar's gift, they needed no declarator; the LORDS found that these clauses *de novodamus* might save from forfeiture or recognition, but would not comprehend the gift of escheat or liferent, or any such casualty of the said lands.

*Haddington, MS. No 2262.*

1636. March 10. CRAWFORD against L. MURDISTON.

No 10.

A vassal's right having fallen by the

THE Lady Murdiston being divorced from her husband, in whose contract of marriage, her husband was obliged to provide her to the liferent of all lands to be conquest by him after the said contract; to which clause she having made