

SECTION V.

Act 147th, Parliament 1592, regarding Escheats.

No 63. 1623. *March 21.* CUNNINGHAM *against* LAIRD OF BUCHANAN.

THE Laird of Buchanan was obliged, by contract to the Lord Kilmaurice, to obtain to him two renunciations of two wadsets upon the lands of Kilmarnock. The Lord Kilmaurice makes heritable disposition of the said lands to his brother John Cunningham, and makes him assignee to Buchanan's contract, who being charged, suspended, that the Lord of Kilmaurice being at the horn at his instance, could not make an assignation to his prejudice. It was *answered*, That horning could not disable him to dispoise upon his heritage, or to make assignation to heritable bonds, and next, that the horning was for a clause of warrandice of an heritable contract, whereupon no interest was liquidate or declared; which was found relevant.

Fol. Dic. v. 1. p. 557. Haddington, MS. No 2823.

* * See Cunningham against of Earl of Glencairn, No 31. p. 3636,
voce ESCHEAT.

No 64. 1624. *February 10.* L. EDMISTON *against* E. LOTHIAN.

IN an action betwixt the Laird of Edmiston, as assignee constituted by Sir John Ker to a contract for payment of sums of money therein contained, against the Earl of Lothian; this assignation being quarrelled by the Earl of Lothian, as null by the act of Parliament 1592, because it was made by a rebel then, and as yet remaining rebel, to the defender's prejudice, who is the cedent's creditor; this allegiance was repelled, because the contract assigned was an heritable contract, and so came not under that act of Parliament.

Act. Nicolson.

Alt. Hope et Belsbes.

Clerk, Gibson.

Fol. Dic. v. 1. p. 557. Durie, p. 108.

* * Haddington reports this case:

IN the action betwixt the Laird of Edmiston and the Earl of Lothian, the LORDS found, that Sir John Ker's being at the horn hindered him not to make assignation of an heritable bond.

Haddington, MS. No 3001.