

1684. *December 13.* GEORGE SUITY of Balgon *against* JOHN HAY.

No. 3.

An apparent heir intending to reduce a deed *ex capite lecti*, petitioned for sequestration of the papers. Although no summons was yet raised, the papers were ordered to be produced and inventoried for inspection.

JOHN SUITY is prevailed with by the Lady Kettleston, and his mother's friends, to dispoise his whole estate, heritable and moveable, to a son of John Hay's, Mr. Thomas Hay, the clerk's nephew. George Suity of Balgon, his cousin-german and nearest heir, resolving to quarrel this deed, *ex capite lecti*, gives in a bill, craving a sequestration of the writs in one of the clerk's hands till the event. Answered, He has no interest, there not being so much as a summons raised; and John Hay excludes him with a valid disposition. Replied, He is neither seeking exhibition nor delivery, but only a sequestration of the papers, which can prejudice none. The Lords, on Kemnay's report, ordained John Hay, merchant in Edinburgh, to produce the whole writs in my Lord Kemnay's hands, to the effect the said George, as apparent heir, may have inspection thereof; and appoint them to be inventoried, and the inventory to be subscribed by the said John Hay; and then the whole writs to be given back again to the said John, to be made forthcoming by him to all parties who shall be found to have interest therein.

Fol. Dic. v. 2. p. 365. Fountainhall, v. 1. p. 320.

1697. *February 27.*

VISCOUNT TEVIOT *against* CREDITORS of DUNFERMLINE.

No. 4

A BURDENED estate being under sequestration at the creditors' instance, and the heritor forfeited, and the forfeiture declared, the Lords nevertheless refused, at the donatory's desire, to remove the factor, though the donatory was come in the heritor's place, and offered caution to the creditors to make the rents forthcoming to them, according as they should be preferred; yet here the Lords thought it was reasonable, that the donatory might call the factor to an account how he employed the rents, that there might be no embezzlement nor collusion.

Fol. Dic. v. 2. p. 366. Fountainhall.

* * * This case is No. 1. p. 5109. *voce* GIFT of FORFEITURE.

1697. *November 9.*

HAMILTON of Hags, Bailie GRAHAM, and other Creditors of Sir James Stamford of Newmills, *against* JOHN STAMFIELD.

No. 5.

HAMILTON of Hags, Bailie Graham, and other creditors of Sir James Stamford of Newmills, gave in a petition, shewing, that John Stamford, his son and apparent heir, was *in lecto* dying, and had the whole writs of the lands whereof they had raised a summons of sale, and there was hazard of his wife's putting