

No 10. ed thereto; the LORDS found, That in regard superiors use to clear all the casualties before the entry of the vassal, that the precept of *clare constat* included all, both ward duties, blench, feu, and non-entries, and did import a discharge thereof.

*P. Falconer, No 22. p. 11.*

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S E C T. III.

Effect when the Superior grants a precept in obedience.

No 11.

Granting a charter of apprising does not prejudice the King of the recognition of the debtor already fallen.

1614. February 18. LAIRD of LUGTON *against* LAIRD of LETHINDIE.

IN an action of recognition pursued by the Laird of Lugton *contra* the Laird of Lethindie, the LORDS repelled the exception proponed for the part of the creditors being that their lands were comprised by Andrew Fleeming of Calus, and that he was infeft by the King's Majesty long before the gift of recognition; and found, that the King's Majesty could not omit and tyne his lands falling to him by recognition by an infeft of comprising, and the King's Majesty, in this case, could be in no worse estate than a private superior who cannot tyne his right by infeftment of comprising, and therefore no more the King's Majesty, seeing there is no consent given by the treasurer, no composition paid to the King's Majesty, nor other deed done, by the which the King's Majesty may be denuded.

*Argumento*, The King tynes it not by a retour, *ergo*, and so it is by the entry or change of a tenant.

*Fol. Dic. v. 1. p. 431. Kerse, MS. fol. 118.*

1622. July 5.

DONATAR of the EARL of TULLIBARDINE's Escheat *against* ADINSTON.

No 12.

GRANTING a charter of apprising prejudices not the king of the liferent escheat of the debtor already fallen.

*Fol. Dic. v. 1. p. 431. Durie.*

\*\*\* See this case, No 57. p. 366o.