

\* \* \* Gosford reports the same case :

IN a double poinding raised by Johnston of Wamphray, wherein were called one Smart, who had comprised the liferent of some lands belonging to the Lady Wamphray, who was again married to the Laird of Castlemains, upon a debt due by Castlemains himself ; as likewise for the Earl of Dumfries and Ley, who had right to the single escheat of the Laird of Castlemains by gift from the King, under which the Lady's liferent did fall, as belonging to Castlemains *jure mariti*, the LORDS preferred the donatar and his assignee ; albeit it was alleged that the compriser was infest long before any gift granted by the King, or any diligence done thereupon ; and found, that by the denunciation of the rebel, his *jus mariti* did fall under escheat, and the King and his donatars had thereby *jus acquisitum*, and that right having *tractum futuri temporis* the donatar might pursue at any time thereafter, notwithstanding of intervening comprisings.

No 55.

Gosford, MS. No 38. p. 13.

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S E C T. IX.

Competition Liferent-escheat with Creditors.

1615. March 9.

M'MATH against STEWART.

IN an action of removing, pursued by William M'Math, against Stewart of Dunduff, it was found by the LORDS, that the comprising led by William M'Math, of Dunduff's lands, whereupon he was infest, holden of the King, could not be prejudged by a gift of liferent of Dunduff's lands, granted by the King after the comprising, albeit Dunduff was year and day at the horn before the leading of the comprising.

No 56.

Fol. Dic. v. 1. p. 256. Kerse, MS. fol. 219.