

1662. *January 10.* BREADIE *against* BREADIE.

No 3.

The gift of the escheat of a person, who had not been convicted of a crime, tho' he had obtained a remission, found ineffectual.

ONE Breadie procures the gift of his brother's escheat, as an adulterer, and pursues a declarator.—It was *alleged*, That he was never convicted in a criminal court for adultery.—It was *answered*, and offered to be proven, That he satisfied the kirk as an adulterer, and took a remission therefor.—It was *replied*, That no such church satisfaction or confession could be equivalent to a conviction by an assize, which only could make his escheat to fall; unless he had been denounced rebel, or declared fugative for not compearance. Nor did the taking of a remission import so much; seeing men may take remissions where there is no ground for a criminal conviction; and unless he were pursued criminally, and defended himself by his remission, and thereupon were assoilzied, the accepting of a remission could not make him guilty, to make his escheat fall.

THE LORDS found the allegiance relevant, and assoilzied.

*Gilmour, No 15. p. 13.*

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SECT. II.

Gift of Single Escheat how far Extended.

1620. *December 6.* SIR HENRY WARDLAW *against* WILLIAM DICK.

No 4.

FOUND, that an escheat comprehends the farms of the hail year, wherein any party is denounced.

*Kerse, MS. fol. 220.*

1622. *June 28.* LA. CAPRINGTON *against* SIR JOHN INGLIS.

No 5.

FOUND, that simple escheat, albeit gift with this clause, 'of all which shall happen to be acquired,' does comprehend no more but the goods and gear pertaining to the rebel, the time of the denunciation and gift, not acquired within year and day after the gift.

*Fol. Dic. v. 1. p. 346. Kerse, MS. fol. 220.*