

1623. February 27. L. ESSILMONTH *against* L. BUCKIE.

IN an action betwixt L. Essilmonth and L. Buckie, the LORDS found, that a gift of escheat given and conceived *specifice* in these words, viz. of all which pertained to the rebel the time of his rebellion, could extend to nothing which the rebel had after the precise time, when he was denounced to the horn, or which he acquired after horning, but only extended to the goods which actually pertained to him at the very time of the denunciation; and where gifts of escheat bore this clause, viz. of all goods which the rebel should acquire after his rebellion, that such clauses ought not to be sustained in any sort, neither that it ought to be restricted or sustained for all goods which he should acquire within a year after the gift, for the which the Lords refused to allow these gifts.

Act. *Nicolson & Lermontb.*

Alt. *Hope & Lawtie.*

Clerk, *Hay.*

Fol. Dic. v. 1. p. 346. Durie, p. 53.

* * * Haddington reports the same case :

IN the action betwixt John Bruce and Buckie, the Lords fand; that a gift of escheat, bearing, that the King gives the goods pertaining to the rebel the time of his denunciation, could be extended to no others, but such as then belonged to the rebel, and not to any goods which he had thereafter, till the date of the gift, because it bore not the goods acquired and pertaining to him during the time of his remaining at the horn.

Haddington, MS. No 2792.

1625. July 29. SIR WILLIAM KER *against* SIR JOHN KER.

FOUND, that assignation of liferent tacks falls under the simple escheat of the assignee, albeit the tacks could not fall under the escheat, neither simple nor liferent of the tacksman and cedent, but only for the first liferent.

Kerse, MS. fol. 221.

* * * Durie reports the same case :

SIR ROBERT KER, as donatar to the escheat of umquhile Robert Earl of Lothian, for putting hand in himself, and self-murder, having obtained a general declarator, thereupon pursues a special declarator, to hear the right of the tacks under-written, decerned to pertain to him, as falling under the said escheat; which tacks being of the teinds of Nisbet, were set to Sir John Hume of Hut-

No 6.

Gifts of escheat not to be extended beyond the express terms of the grant.

No 7.