

and the donatar acquired possession before the sasine, which was found relevant to exclude the pursuer's right; seeing the charter made to her, albeit before the rebellion, and albeit inhibition was execute against her author, although before his rebellion, yet the same remained in the naked terms of a personal obligation, so long as sasine was not taken thereupon, and gave not the pursuer any real right to the land before the sasine, betwixt the which, and the charter, her author's rebellion intervening, who was not effectually denuded, by the naked charter, but who remained in the real right of the land, gave right thereof to the King for his lifetime, and she had only personal action against himself and his heirs; for, in this case, the King's donatar was in as good estate as any other person, who had acquired a real right of the land after the pursuer's charter, and before her sasine, and who would have been preferred to the pursuer; and the inhibition preceding could not derogate from the King's right acquired by the rebellion.

No 58.

Act. *Cunningham.*Alt. *Belshe.*Clerk. *Gibson.**Fol. Dic. v. 1. p. 256. Durie, p. 85.*1630. *June 19.*NISBET *against* LADY ABERCORN.

No 59.

A CREDITOR of a vassal having arrested after year and day, and obtained decret of furthcoming before gift or declarator of the liferent escheat, was preferred to the superior's donatar because of his diligence.

*Fol. Dic. v. 1. p. 256. Durie.**** See This case, Section 5. *b. t.* No 38. p. 3643.1631. *February 16.*LO. CRANSTON *against* SCOT.

LO. CRANSTON, superior of the lands of Salwoodsheil, pursuing declarator of liferent against Sir John Scot, as son and apparent heir to his father, who was the pursuer's vassal, wherein Andrew Scot compearing, who had comprised these lands, being a creditor to Sir John, *alleged*, That he being creditor to him before he was rebel, and having denounced the lands to be comprised, albeit after he was rebel, yet before he was rebel year and day, and thereafter having completed the comprising, and charged the superior to enter him, that ought to stay the declarator. THE LORDS repelled this allegiance, and found that his comprising, deduced and perfected after the debtor was rebel year and day, and a charge following thereupon, could not prejudge the superior of the casualty of the liferent of the apparent heir of the vassal; in which casualties, the LORDS found, that the superior was not hurt by the foresaid denunciation.

No 60.

Found in conformity with
No 57. p.
3660.