

1791, Duke of Queensberry against Smith; 1778, Sir W. Hamilton against Earl of Lauderdale. The three last cases not reported. See APPENDIX. No. 70.

The Lord Ordinary reported the cause on informations.

The Court were clear, upon the grounds stated by the pursuer, that the entry of singular successors was not taxed by the charter in question. It was further observed, that the circumstance of the parties having agreed to score the blank which had originally been left for the purpose of filling up a fixed composition, to be paid on the entry of a singular successor, afforded additional evidence that they meant to leave that matter to be regulated by the common law, and that the general clause founded on by the defender was intended solely to provide against the lands remaining with the superior, in consequence of a feudal delinquency.

The Court found, "That Lord Sempill was not entitled to be entered as a singular successor in the lands in question, but upon payment of a year's rent, in terms of the statute of the 20. Geo. II."

Lord Ordinary, *Justice-Clerk.*

Act. *Honyman.*

Alt. *Dean of Faculty Erskine.*

Clerk, *Home.*

R. D.

Fol. Dic. v. 4. p. 315. Fac. Coll. No. 123. p. 275.

SECT. XIII.

Singular Successors entitled to be entered without paying up the By-gone Duties.

1630. July 17. LORD ERSKINE against EARL HOME.

A superior cannot refuse to give infeftment upon a comprising deduced against his feu-vassal, upon pretence of by-gone feu-duties resting owing, because the singular successor is not liable to pay the feu-duties that have become due before the date of his right, and the superior is at no loss, seeing he may point the ground for the same.

No. 71.

Fol. Dic. v. 2. p. 410. Durie.

* * This case is No. 59. p. 15054.

See Cowan against Elphinston, No. 62. p. 15055.