

KING'S PALACE.

1662. *January 11.* LORD CARNEGIE *against* JAMES CECIL.

LADY ANNA HAMILTON, eldest daughter to the deceased William, Duke of Hamilton, having obtained charter of the lands of Innerwick from the King, as becoming in his hand by recognition, in so far as the lands being holden ward, the late Earl of Dirleton disposed the same to James Cecil, second son to his second daughter; whereupon, the said Lady Anna, and Lord Carnegie, her husband, for his interest, pursue declarator of recognition against the said James Cecil, and against James Maxwell's heirs of line, and heir male, to hear and see them secluded for ever, and that the lands were fallen into the King's hands, and belonged to the pursuer, as his donatar by recognition, through the ward-vassal's alienation thereof, without the consent of the King, as superior. The defender alleged no process, because all parties having interest are not called, viz. Sir Robert Fletcher, who stands publicly infest in the lands libelled.

THE LORDS repelled the allegiance, as *super jure tertii*, in respect it was not proponed by Sir Robert, and that his right could not be prejudged by any sentence, whereto he was not called.

Secondly, The defenders alleged no process, because the heirs of line are not lawfully called, in so far as three of them are resident in the Abbey, and are minors, and their tutors and curators are only called at the market-cross of Edinburgh; whereas they reside within the regality of Broughton, and their curators should have been cited at the cross of the Canongate as head burgh of that regality. The pursuers *answered*, that the defenders reside in the King's Palace, which is exempted from all regalities, and must be a part of Royalty, being the King's own house, by his Royal Prerogative.

THE LORDS repelled the defence, in respect of the reply, and found the King's house to be Royalty, and so in the shire, and not in the regality.

Fol. Dic. v. 1. p. 526. Stair, v. 1. p. 79.

See APPENDIX.

No 1.

Holyrood-house, though locally within the regality of Broughton, is, by the royal prerogative, exempt from all regalities, and is therefore understood to be within the shire of Edinburgh