

infestment public as to the hail, albeit the portion natural did not bear annual-rent while after the father's decease; and that in respect both the sums being *in eodem corpore juris*, could not be divided.—*Alleged* further for the Lady Kincardine, That she ought to be preferred not only for 80,000 guilders due to herself, by her contract of marriage, for which she stands infest in the hail estate, but also for L. 3000 of aliment, modified by the Lords for maintaining of the family for the space of three months, from the time of the late Earl's decease to the next term thereafter.—*Answered* for the Creditors, That the late Earl being denuded of his estate by virtue of adjudications and infestments of annual-rent before his decease, the said aliment cannot be allowed, nor can affect the heritable estate, but ought to be paid out of the moveables intromitted with by the Lady, by virtue of her husband's escheat and otherwise, which are of a considerable value.—**THE LORDS** found, That Cornelius Somerdyke, his infestment of relief, albeit base, was preferable to the posterior public infestments, and that General Dalzell's confirmation having first past the seals, was preferable to the Lord Cardross's confirmation, albeit it was [long before past in Exchequer.

No 22.

*Fol. Dic. v. I. p. 194. Sir P. Home, MS. v. I. No 197. p. 282.*

1691. July 8.

LORD SINCLAIR *against* CREDITORS of LANGTON.

MY LORD SINCLAIR having presented a signature of confirmation of a right of relief (after he was distressed by a bare registration without a charge,) to the Exchequer, and taken instruments thereon, was brought in *pari passu* with those whose confirmations were past that same day his was presented; it being presumed, that if my Lord's had first past in the Exchequer, he would have got it sealed as soon as Carnwath's. A bill being given in against this interlocutor, as contrary to a former in the same cause the preceding session, the LORDS adhered, except as to the lands holding ward; *2do*, Found, that a citation in a mails and duties, prior to a confirmation in Exchequer, was no cloathing of the the base right of relief; but answer was delayed as to the effect of a second citation, if it cloathed like a citation in a pointing of the ground, or if not, till decreet or possession followed.

No 23.

*Fol. Dic. v. I. p. 194. Harcarse, (INFESTMENT.) No 623. p. 172.*

Confirmation operates a discharge of the superior's casualties. *See* IMPLIED DISCHARGE.

Confirmation makes not a base infestment public. *See* BASE INFESTMENT.

Deeds that have the force of a confirmation. *See* VIRTUAL, Confirmation.

Confirmation of Testaments. *See* SERVICE and CONFIRMATION.

*See* Justice-Clerk against Coldingham, No 35. p. 1753.

*See* SUPERIOR and VASSAL.—INFESTMENT.—APPENDIX.