

*Answered*, Lord Lovat had in him the full right of liferent and fee, consequently the whole estate; and the jurisdiction, which was a quality of the right to the lands, fell by the escheat, whereby the liferent of the estate itself was lost.

No 344.

*Objected*, 3dly, By Lord Lovat's forfeiture the regality was suppressed, and with it the offices of the claimants, without the aid of the act of Parliament for abolishing jurisdictions.

*Answered*, That regalities were not extinguished by forfeiture, but vested in the Crown in virtue of the act made for that purpose; so that were it not for the statute abolishing jurisdictions, the claimants' offices would subsist, and therefore they were entitled to a compensation; especially as it could not be denied they were in possession on the 11th of November 1746, the day mentioned in the statute, as Lord Lovat was not then attainted.

*Replied*, That the attainder drew back to a time before the 11th of November 1746, so the claimants were not then in possession.

THE LORDS found them not entitled to a recompence.

*Fol. Dic. v. 3. p. 364. D. Falconer, v. 1. No 243. p. 329.*

1748. February 18. LORD DUN against The KING'S ADVOCATE.

THE LORD DUN claimed a recompence for the constabulary of Montrose.

*Objected*, The claimant has conveyed his whole jurisdiction, by a perpetual deputation to the Magistrates of Montrose, expressly renouncing the power of judging, either by himself, or by sitting with them, except when he shall be desired to assist them in the determination of difficult and arduous causes, so that there remains nothing with him; and the jurisdiction is saved to the town by the statute; or if it be not, they have not claimed.

*Answered*, The claimant is constable, and the Magistrates only his deputies, and as such expressly bound to fence their courts, and issue precepts in his name; so that if the principal jurisdiction is abolished, it is impossible the deputation can subsist. The Magistrates have lost what share of the recompence might have belonged to them by not claiming, the consequence whereof ought to be, that the Lord Dun should be considered as having the full right in him, for the Advocate cannot plead upon the right of a third party; but supposing the Magistrates had claimed, or it should be found the deputation is saved to them, the claimant has still a valuable right, as he might act in case of a vacancy in the Magistracy.

THE LORDS found the claimant entitled to a recompence.

*Fol. Dic. v. 3. p. 363. D. Falconer, v. 1. No 244. p. 330.*

No 345.

Recompence found due for a constabulary, of which a perpetual deputation had been granted to a town, exclusive of the principal's power of judging.