

profit nor lose by the annualrenter, nor he by me, because he draws as much as he would have done if I had been out of the case. By this way of reasoning the division is into three, two, and one. This the Lords not understanding, did once, in a similar case, bring all the three creditors in *pari passu*. Vide M'Kenzie's Observations on Act 1661.

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1749. December 12. CLAIM of ——— CAMERON of LOCHIEL.

[Elch. No. 12, *Forfeiture*.]

IN the year 1716 John Cameron of Lochiel was attainted, and his son Donald claimed the estate from the Commissioners of Inquiry, and was found to be in fee of it by a disposition in 1706, the father having the liferent. In the year 1746, Donald was attainted, under the name of Donald Cameron of Lochiel, *younger*, and the Lords found this a good attainder, though it was said by Lord Easdale that the addition of *younger* of lands, always, according to our custom, expressed apparency or expectancy of succession, which could not be in this case, as Donald was in the fee of the estate, and the father, John, though alive, yet being attainted, was to be considered as not existing; so that this was not the proper designation of Donald, neither was it his name of reputation, since he was never known by that name, but always by the name, *of Lochiel*, simply.

To which it was ANSWERED, That he was properly enough designed *younger*, in distinction from his father, who was commonly known by the name of *Old Lochiel*, more especially as the father had the liferent of the lands; that the reason why the son was not commonly known by the addition of *the younger* was, that the father never lived in this country, but always in France; but, had they been both apprehended and brought before the Court of Justiciary in the year 1746, a warrant for execution would very properly have been craved against Donald Cameron of Lochiel, *younger*.

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1750. January 4. ——— against ———.

[Kilk. No. 1, *Rebellion*.]

THE question here was concerning a horse that had been taken by the rebels in the 1745, and was retaken by an officer, and afterwards found in the possession of another officer, from whom the proprietor now demands him.

The Lords found, That the second officer was obliged to restore him, or pay the price of him at the time he was challenged.

*N.B.* Lord Elchies and the President thought that the owner must pay the price that the possessor paid for him to the first officer.