

1757. July 6.

WILLIAM FRASER, junior, *against* HIS MAJESTY'S ADVOCATE.

WILLIAM FRASER, junior, writer to the signet, entered a claim on the forfeited estate of Lovat, upon a bond of pension granted by the late Lord Lovat to him, in the year 1741, of the following tenor: ' I Simon Lord Fraser of Lovat, considering that William Fraser, junior, writer to the signet, will be at considerable pains and trouble in managing my law affairs at Edinburgh, I am resolved to settle on him the yearly salary underwritten. Therefore, I bind and oblige me, my heirs and successors, to content and pay to the said William Fraser, his heirs and assignees, the sum of L. 15 Sterling money yearly, and each year, during all the days of his life, and his continuing to act honestly and faithfully for me, and my successors, as agent and doer; and that from the term of Whitsunday next, and so forth thereafter during his life, and willing to act for me and mine, in manner above-mentioned.'

It was *objected* to this claim, by his Majesty's Advocate; That the bond is not conceived in the terms of a life-rent-annuity; it does not bear to be granted for services past, neither does it bear to be for love and favour; the inductive cause is future services; the obligatory clause is during Mr Fraser's life, and his continuing those services honestly and faithfully; and there being now no services to perform, the pension falls.

*Pleaded* for Mr Fraser; The bond is to him during his life, and as long as he is willing to act, and acts faithfully; and as no objection could have been made, either to his willingness or fidelity, by Lord Lovat or his heirs, he cannot be forfeited of his right by the fault of Lord Lovat, in bringing his estate into a situation to need no services; and as Lord Lovat and his heirs would have been bound in the present case to the claimant, so the Crown, in their right, must be bound also.

' THE LORDS sustained the claim.'

For the Claimant, *Montgomery, Dav. Dalrymple, John Dalrymple.* Alt. *King's Counsel.*  
*J. D.* *Fol. Dic. v. 3. p. 223. Fac. Col. No 38. p. 61.*

No 30.

A pension granted to an agent for life, and his continuing to act faithfully as agent to the granter, found to continue, notwithstanding the granter's forfeiture.