

No 37. 1627. July 26. JOHN INGLIS *against* GILBERT WOOD.

TACKS and assignments made *stante rebellione* are null for all years following the declarator of escheat, notwithstanding the said tacks or assignments were made to creditors. See No 36, *supra*.

*Fol. Dic. v. 1. p. 555. Kerse, MS. fol. 221.*

No 38. 1628. March 19. RAITH, Donatar, *against* L. BUCKIE.

Found in conformity with Lindsay *against* Porteous, No. 30. p. 3354.

A SPECIAL declarator, after a general, of Andrew Meldrum's liferent by Mr James Raith, donatar thereto, against L. Buckie, the defender clothing himself with an heritable right and disposition made of the lands, whereof the liferent was acclaimed in this special declarator, and which was acquired by him from the rebel, before year and day ran after he was denounced rebel, albeit it was granted after he was denounced, yet, being granted before the expiring of the year after his denunciation, and being granted for a true cause of preceding debt, owing to him by the rebel before his rebellion, and he being in real possession of the lands by virtue of his right continually *sinsyne*, the same ought to defend him against this declarator; this allegiance was repelled; and the donatar was found to have right to the lands, during the lifetime of the rebel, notwithstanding of the heritable right made to the excipient for the preceding cause, and notwithstanding of his possession preceding the expiring of year and day.

Act. Lawtie.

Adv. Hope.

Clerk, Gibson.

*Fol. Dic. v. 1. p. 555. Durie, p. 364.*

No 39. 1629. December 18. L. of CAPRINGTON *against* CUNNINGHAM, &c.

A right of teinds made by a rebel at the horn, although no declarator had yet followed, was sustained to defend a party in a spuilzie, although the right was purchased from the rebel for a great sum, and he

In a spuilzie pursued by Caprington, as donatar to the escheat and liferent of the Lo. Ochiltree, who had right to the teinds of \_\_\_\_\_, whose liferent being gifted and declared, he, by virtue thereof, pursues a spuilzie, wherein the defender clothing him with the right of the same teinds from the Lo. Ochiltree, and continual possession these nine or ten years bypast, he *alleged*, The same being purchased for great sums of money, ought to defend him, albeit his right was made after the maker was rebel, which, notwithstanding, ought to be maintained, being purchased before the declarator, and so *bona fide* acquired, the rebellion never being intimated, nor made known to the excipient; the allegiance was repelled; and the right made to the party by the rebel, being at the horn at that time, albeit not then declared, was not sustain-