

either to help or hinder the dispensing therewith, which was desired: So the LORDS thought it needed not to be craved to be dispensed with, in regard of the foresaid clause, by reason that clause was to be understood of forefaultries, which made forefaulted persons to be repute to have died, not at the faith and peace of the King, and not of common rebellion and horning. See 19th June 1630. E. Crawford, Durie, p. 520. *voce* PERSONA STANDI.

In special declarators, after the general declarator, the rebel needs not to be called, when the debtors to the rebel are specially convened, because the decret of general declarator puts the donatar in the rebel's place; and so the same holds when the rebel is dead, that his executors need not to be called to the special declarator, nor no other person who might represent him of the law, as heir or executor. See SERVICE of HEIRS.

*Fol. Dic. v. I. p. 137. Durie, p. 234.*

1666. June 27.

MASSON against ———.

MASSON pursuing a declarator of escheat, it was *answered*, That all parties having interest were not cited at the market-cross, conform to the warrant of the letters.—It was *answered*, That was but *stilus curiæ*, long in desuetude, and it is enough that the rebel is cited, and none would be prejudged who were not cited; and any may compear that please for their interest.

THE LORDS repelled the defense, and forefault the amand given thereupon, as being contrary to the common custom.

*Fol. Dic. v. I. p. 137. Stair, v. I. p. 381.*

1682. December. LORD ABERDEEN Chancellor against ANNE PITCAIRN.

FOUND that in a general declarator of a defunct's escheat, all the nearest of kin of the same degree, who had interest in the executry, ought to be called, and that it was not enough to call the relict, who had right in law to the half, there being no children; because some of the nearest of kin might produce a discharge of the debt, the ground of the horning, which would exclude the escheat as to any part of the goods; but the LORDS allowed them to be cited *cum processu*.

*Fol. Dic. v. I. p. 136. Harcarse, (ESCHEATS.) No 426. p. 113.*

No 65.

No 66.

Declarator of escheat sustained, without calling all parties having interest at the market cross.

No 67.