

## S E C T. II.

## What carried by Forfeiture.

— November 9.

JOHN LORD BORTHWICK *against* MARJORY Spouse to Umquhile The LORD CRICHTON.

GIF the husband gevis and disponis to his wife ony landis, or annualrentis, in conjunct fie, or utherwayis, and thairefter hir said husband happinis to be foirfaltit for ony crimes committit be him, gif the said wife has not obtenit confirmatioun of the superiour, upon the said gift and dispositioun maid to hir, the samin landis or annualrentis cumis and fallis under foirfaultour as gif thay had never bene disponit.

No 6.

*Balfour, (FORFEITURE.) No 12. p. 564.*

1492. February 1. The KING *against* The LORD of ST JOHN.

GIF ony free tenant haldand landis of ony superiour under the King, ather spiritual or temporal, commit ony crime of tressoun, and is foirfaultit thairfoir, the King, because he cannot hald landis of ony man, sould present ane tenent to the said immediat overlord spiritual or temporal, of all and hail the landis, quhilkis sumtime pertenit to him that is foirfaltit, and require the said overlord to give infestment heritabilie of the samin landis to him quha is presentit; for, in sic caisis, powar and richt of presentatioun is understuid to pertene to his Grace as escheat; except the said overlord be specially infest with fie and foir-falture of his awin tenents; and the tenent quha is presentit may obtene a charge be deliverance of the Lordis of Counsal, under the testimonial of the Greit Seill conform to his presentatioun, and thairwith charge the said overlord to ressave him as immediat tenent to him in the saidis landis, and infest him and his airis, be chartour and sasine thairintill, to be haldin of the said overlord als frelie as the said persoun that is foirfaltit held the samin of him befoir; the quhilk gif the said overlord refusis to do, the said tenent may raise the remanent preceptis of our Soverane Lord's Chancellarie to charge the said overlord to ressave him in tenent in manner foresaid.

No 7.

*Balfour, (FORFEITURE.) No 8. p. 562.*

No 7.

\* \* \* In the same manner were decided Laird of Ormiston against Laurie Hamilton, 29th March 1561; and Laird of Haltoun against young Laird of Carmichael, 17th March 1568.

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1540. May 31. MR JAMES FOULIS *against* The TENANTS of N——.

No 8.

GIF ony persoun set tack and assedatioun of ony landis or possessiounis per-  
tenuing to him, and befor the ische thair of his landis, guidis, and geir, cumis  
in the King's handis be foirfaulture or utherwayis, the King nor his donatar is  
not bund nor oblist to keep and observe the said tack and assedatioun for the  
termis contenit thairin to rin.

*Balfour, (FORFEITURE.) No 6. p. 562.*

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1541. June 20. HOPE-PRINGLE *against* KER.

No 9.

GIF ony persoun beis foirfaltit for tressoun, and his landis and heritage dis-  
ponit be the King to ony persoun, or persounis, albeit he be restorit thairefter  
to all his landis, honouris, guidis, and geir, zet, nevertheless, he sould persew  
befor the Lordis for the particular reducioun of all and sundrie the infeftments  
of his landis, maid and gevin efter his foirfaulture be the King to ony persoun,  
because gif landis cum in the King's handis be foirfaulture, are disponit efter-  
wart be his Hienes to ony persoun thay may be bruikit and joisit be him, to  
quhom thay were disponit efter the reducioun of the foirfaulture, ay and  
quhill special declaratioun of ane Judge pass conform to the reducioun.

*Balfour, (FORFEITURE.) No 13. p. 564.*

No 10.

1552. May 25.

HATTON *against* MURRAY.

A party who had the survivancy of a tack, being forfeited, and his escheat gifted during the life of the tacksman, it was found, that, upon the tacksman's death, the donatar of the forfeited person did succeed to the tack in his right.

ANENT the action moved be Matthew Hatton *contra Episcopum Murray Com-  
mendatarium de Scona*, the said Matthew was donatour to the Queen, of the es-  
cheat of ane called Thomas Stewart, wha was forfault for certain points of  
treason. There was ane letter of tack set be Abbot and Convent of Scone, of  
certain lands till ane callit Thomas Shank, and to the said Thomas Stewart and  
his wife, the langest liver of them two. The said Thomas Shank lived three  
years after the forfaulture of the said Thomas Stewart, and bruikit the said  
lands. The said Matthew, donatar foresaid, called the Bishop and Commenda-  
tor foresaid before the Lords to hear him be decernit be their decret to receive  
him tenant to the said land in place of the said Thomas Stewart. It was *except-*  
*ed* be the said Bishop, that he sould not receive him tenant because the said  
Thomas Shank, wha was first in the tack, lived three years after the forfaulture