

## SECT. VII.

## Effect of Civil Rebellion.

1626. *November 21.* SEATON, Supplicant.

ONE may be served heir to a rebel, who died at the horn, notwithstanding the clause in the brieve, requiring to cognosce that the defunct died in the faith and peace of our Sovereign Lord, which was found only to respect forfeiture, and not civil rebellion.

*Fol. Dic. v. 2. p. 371. Durie.*

\* \* This case is No. 65. p. 2208. *voce* CITATION.

No. 34.

## SECT. VIII.

Service by Adjudication on a Trust-bond.—Effect of a supervening  
Alteration on the State of the Right.

1781. *July 25.* HEPBURN *against* SCOTTS.

UPON the death of Patrick Hepburn, of Kingston, in 1748, that estate devolved on Patrick Scott, his sister's son. Instead of making up titles, by service to his uncle, he was advised to grant a trust-bond; upon which, after a special charge, adjudication was led; and, upon that adjudication, assigned by the trustee, he possessed the estate till 1779, and then died without issue.

A competition ensued between his heirs-at-law, Elizabeth and Katharine Scotts, his father's sisters, and Patrick Hepburn, who was ninth cousin, and had, by service, entered heir to the person last in the fee of the estate.

Pleaded for Mr. Hepburn: When the statute 1621 substituted a charge against the heir in the place of a service, it was by no means in the view of the legislature to impinge upon the legal succession, nor to vest, in the apparent heir, an active right to the property of the estate. An adjudication, warranted by this act, differs not in matter nor in form from others, and its effects are to be regulated by the same principles. Unless secured by a declarator of expired legal, or by the

No. 35.

An adjudication on a trust-bond, vests an active right in the truster, and transmits it to his heirs.