

No 26.

been in possession, by setting the tack produced, which is sufficient as to possession, albeit it were null by exception, as it is not; and the nullity thereof is only competent to the person of the granter, and not to this pursuer.

“ THE LORDS found the King’s gift and decret conform, with institution and collation was not sufficient, unless either the mortification of these teinds or the prebendar’s possession were instructed.

*Stair, v. 1. p. 287.*

1665. July 21.

GAVIN HAMILTON *against* DUKE HAMILTON and BISHOP of EDINBURGH.

No 27.

GAVIN HAMILTON, as assignee by the collector of vacant stipends, charges the parishioners of Crawford. Compearance is made for the Bishop of Edinburgh, *alleging*, that this was a patrimonial kirk of the bishoprick of Edinburgh, and so was not comprehended in the late act of Parliament anent vacant stipends.

THE LORDS repelled the defence, and preferred the collector of the vacant stipends; for they found the act was general, without any such exception.

*Stair, v. 1. p. 400.*

No 28.

1676. July 11. The BISHOP of DUMBLAIN *against* KINLOCH.

A party held an annualrent right over lands, which were afterwards resigned to the King, and by the King mortified to a bishoprick. The bishops were suppressed, and afterwards re-established. While suppressed, the debt was paid to the King, who gave a grant of redemption. The grant of redemption was sustained, tho’ without the consent of the Officers of State.

IN *anno* 1596, the Earl of Bothwell having borrowed, from one Thomas Craig advocate, 7000 merks, did, for security thereof, infest him in ten chalders of victual out of his lands of Hails and Truprain, redeemable upon payment of 7000 merks, by a clause of reversion in the contract, obliging himself to a reversion, being infest. This annualrent was acquired by John Murray, thereafter Earl of Annandale, and by him resigned to King James VI. who, in *anno* 1620, mortifies the same to the Bishop of Dumblain, as Dean of the Chapel Royal, who possessed the same till the expulsion of Bishops in *anno* 1638. The Earl of Bothwell being forfeit, the right of these lands, out of which the annualrent was payable, came by progress, in the person of Sir George Seaton, who, in *anno* 1651, paid the 7000 merks to the King, and obtained from his Majesty a grant of redemption at Stirling, immediately before he went to Woster; yet the King having given an assignation to his chaplains, they continued to possess; and, after the restitution of Bishops, Bishop Leighton did possess; and now Bishop Ramsay succeeding, charges Francis, who has succeeded to Sir George Seaton in the lands, out of which this annualrent is payable, who suspends, on this reason, that his author had redeemed the annualrent from the King in *anno* 1651, when the Bishops were suppressed, and the King had the only title. It was *answered* for the charger, *imo*, That this annualrent being