

1675. June 24.

SNOW against HAMILTON.

EDGERTOUN SNOW as assignee to the relief due by act of Parliament to the heritor, whose lands were designed for a glebe to a minister, having obtained decret against Hamilton of Munkland for the proportional part that befel his lands in the parish; he gave in a bill of suspension; and the LORDS having caused the reasons to be discussed upon the bill, he insisted upon this reason, that neither he nor his land were liable for that relief, because the designation was eleven years ago, and so could only affect the heritor at that time, but could not affect him as singular successor. It was *answered*, that the relief being constituted by the act of Parliament, it became *debitum fundi*.

THE LORDS found, that the relief by the act of Parliament, did only affect the heritor for the time, but did not affect singular successors as not being *debitum fundi*, but was like ministers stipends which burden the heritors but not singular successors.

*Fol. Dic. v 2. p. 63. Stair, v. 2. p. 335.*

\* \* Gosford reports this case.

1675. June 23.—THERE being some lands disposed to Mr Snow with absolute warrandice, and there being a glebe designed out thereof to the minister of the parish, and a decret given against the rest of the heritors for relief according to their proportions; there was a pursuit raised against Hamilton for his proportion effecting to the lands now possessed by him. It was *alleged*, that that the defender being a singular successor unto these lands, long after the designation of the glebe, he was not liable to any relief decerned against his author, seeing a right of relief was not *debitum fundi*. And the heritor, the time of the designation, who was decerned, can only be liable to relieve, that being only a personal action against him. It was *replied*, that the act of Parliament anent designations of glebes, ordaining that the heritor, out of whose lands they are designed, should have relief out of the rest of the lands, did imply that he had a real right in all these lands until he was relieved. THE LORDS did sustain the defence notwithstanding the reply, and found that, albiet the present heritors were liable for their proportions, yet singular successors could not be distressed, seeing the lands themselves were not affected; and it was impossible that they could know any such burden, there being neither sasine nor inhibition or other diligence contained in any public register, which might be the ground of any real action against them.

*Gosford, MS. p. 471. No 759.*

No 7.  
Relief of a  
glebe, was  
found not to  
effect singular  
successors.