

- No 50. which declares that the King has right to the superiority of all kirk lands erected in temporal Lordships, at or before the annexation of kirk lands in the year 1587, reserving to the Lords of Erection the right to the feu-duties ay and while they be redeemed, which does not in the least concern or prejudice mortifications or poor donations, which falls under the exception contained in the act of annexation; and the pursuer could not prescribe a right holding of the King, seeing he and his predecessors were always in use to pay these feu-duties to the town. THE LORDS, in regard the pursuer was infest upon the charter granted to him by the King before any infestment in favours of the Town of Brechin, upon the gift of mortification to them, found and declared that the pursuer holds of the King, and that the Town of Brechin has only right to the feu-duties as patrons of the chaplainrie of Coldhame.

*Sir P. Home, MS. v. 1. No 167. p. 248.*

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1686. *January 15.*

SIR WILLIAM HOPE of Craighall *against* WATSON of Ethernry.

No 51.

ETHERNY holding some kirk-lands of Craighall, which were of old a part of the Abbacy of North Berwick, and having given bond for L. 600 Scots as the composition for his entry; he suspended on this reason, that by the 10th act 1633, annexing the superiority of kirk-lands to the Crown, the King only was his superior. *Answered*, That Sir John Home had resigned these lands to be holden of the Lord of Erection; and that, by the 53d act 1661, a consent of the vassal to hold of an interposed superior is sufficient; *ergo*, a resignation must be declared much more so. *Replied* by the King's Advocate, for the King's interest, That the close of that 53d act reserves to the King all his casualties; *ergo*, the entry is still his. THE LORDS found the reservation in the end of the said act, was only of the King's right of redemption of the feu-farms and casualties at nine years purchase, but not of the casualties themselves during the not redemption, for that would have been *repugnans in adjecto*, and a clear contradiction to the rest of the act; and therefore found the letters or. deily proceeded in favours of Craighall.

*Fol. Dic. v. 1. p. 531. Fountainball, v. 1. p. 392.*

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1688. *July 19.* LORD DUNFERMLINE *against* SIR ROBERT DUNBAR.

No 52.

IN the reduction and improbation at the instance of the Earl of Dunfermline, as come in place of the prior of Pluscardin, against the vassals of the priory,