

ed.—*Alleged* farther for the Lady Kincardin, That she ought to be preferred, not only for 80,000 guilders due to herself, by her contract of marriage, for which she stands infest in the hails estate, but also for 3000l. of aliment, modified by the Lords for maintaining of the family, for the space of three months from the time of the late Earl's decease to the next term thereafter.—*Answered* for the creditors, That the late Earl being denuded of his estate, by virtue of adjudications and infestments of annualrent before his decease, the said aliment cannot be allowed, nor can affect the heritable estate, but ought to be paid out of the moveables intronitted with by the Lady, by virtue of her husband's escheat and otherwise, which are of a considerable value.—THE LORDS found, That Cornelius Somerdyke, his infestment of relief, albeit base, was preferable to the posterior public infestments; and that General Dalzell's confirmation having first past the Seals, was preferable to the Lord Cardross's confirmation, albeit it was long before past in Exchequer.

No 56.

Sir P. Home, MS. v. P. No 197. p. 282.

1682. *March.*

LORD CARDROSS *against* VAN SOMMERDYKE, GENERAL DALZIEL, and Old
LADY CARDROSS.

FOUND, that base infestments of relief were public from the date, without possession, confirmation, or declarator; but this was afterwards stopped. *2dō*, Found, that it is not the priority of passing signatures in Exchequer, that gives preference, whether they be signatures of confirmation or apprising, or upon resignation; but that which is first expedite at the seal will be preferred, even though the competing signatures be signed by the King; because a subscribed signature is an incomplete deed, till the seal is appended. *3tio*, Found, that a bailie of regality's decreet of poinding the ground of lands lying therein, clothed a base infestment with possession, even as to other lands *in eodem corpore juris*, though lying in another jurisdiction. It was debated in this process, if a stranger Dutchman might buy or wadset lands here, without being naturalized, and this could be quarrelled by any but the King. See FOREIGN.

Harcarse, (INFESTMENT.) No 589. p. 163.

* * * This is the same case with the above by P. Home.

1691. *July 1.* CREDITORS OF LANGTON *against* SINALAIR.

FOUND, that infestments of relief are not public from the date, nor from the time of distress, until possession be apprehended; and that any posterior infestment, public before the said possession, (though intervening between the date of the base sale and distress) is preferable.

Fol. Dic. v. 1. p. 91. Harcarse, (INFESTMENT.) No 616. p. 171.

No 57.

Found, but not finally decided, that infestments of relief were public from their date, without possession, confirmation, or declarator.

No 58.