

1697. July 16.

FULLERTON of that Ilk *alias* of Corsbie *against* BAILLIE of Adamton and Monkton.

No 3.
Wreck and
Ware.

IN the debate between Fullarton of that Ilk, *alias* of Corsbie, against Baillie of Adamton and Monkton, to hear and see it found and declared, that he stands infest in his lands erected into a barony, with the privilege of wreck and ware, and so has right to debar the defenders from gathering sea-tangle on his ground, it was *alleged*, wreck and ware was not in the dispositive part of his charter, but only in the clause of the *tenendas*; and so the *littus* being *inter res communes*, and the ware *nullius et primi occupantis*, they, having wreck and ware in their charters as well as he, had right to gather it on the shore, which was free to all lieges, like the use of the air and water. *Answered*, My land marches on the sea, and bounds the lowest ebb-tide, whereas you have no lands on the sea-side, and so can claim no interest by your charters, where that clause is adjected of course, and can signify nothing to those whose lands bound not on the sea-shore; and *esto* the wreck were *inter regalia*, I have a better right to it than you, in respect to the situation of my land; and that a barony being *nomen universitatis*, it needs not express every casualty in the dispositive-clause; and Sir John Skeen, *voce* WARE, tells of sundry old decisions in 1549, (See APPENDIX) where one infest in ware was found to have right to debar other neighbours from gathering it to muck their lands with, or gather cockles, mussells, or other small fish. THE LORDS found whatever the King might say against this pursuer, yet he had right to debar the defenders from gathering sea-tangle, or other ware, so far as his ground fronts on the sea, but prejudice to the defenders' possession, if they were able to prove use and wont past memory of man; seeing the right to this might be prescribed as well as any other servitude.

Fountainhall, v. 1. p. 786

1713. June 25.

JOHN GIB of Castletoun *against* DAVID ROBERTSON of Touchie.

No 4.
Whether a
gift of single,
escheat, flow-
ing from the
Crown fell
under the
right of the
Lord of the
Regality,
within
which the
party lived?

IN a declarator of single escheat, upon a gift flowing from the Crown, at the instance of John Gib against David Robertson,

Alleged for the defender, The gift in favours of the pursuer cannot carry right to the defender's single escheat, because he lives within the regality of Kinross, and Sir William Bruce's heirs have right into all escheats of persons within that regality, conform to a charter from the sovereign of the year 1685, whereby the lands of Kinross, a part of the church-regality in Aberdour, were disjoined from that regality, and erected with other lands in favours of Sir William Bruce and his heirs-male, in unam integram baroniam nuncu-