

THE LORDS sustained the objection against Colonel Dalrymple's sasine as to all lands not specially named in the precept.

No 36.

C. Home, No 198. p. 330.

1753. August 3. TRUSTEES of Graham's Creditors *against* HYSLOP:

No 37.

THE LORDS were all of opinion, that a precept to give infestment in lands described in general to belong to the granter of the precept, is a sufficient warrant to give infestment in every particular tenement, which by production of the granter's infestment is vouched to come under the general description.

Sel. Dec.

* * * This case is No 11. p. 49, *voce* ADJUDICATION.

1756. July 27. CAPTAIN JOHN GORDON of Park, Supplicant.

No 38.

SIR JAMES GORDON of Park, *anno* 1713, executed an entail of his estate in favour of himself, and after his decease to William Gordon his eldest son, and the heirs-male of his body; whom failing, to the heirs-male of Sir James's body, of the then present or any subsequent marriage, &c. Upon this entail he expedite a charter under the Great Seal; and in this charter, with the sasine following upon it, the prohibitory and irritant clauses were engrossed. After Sir James's death, his son, then Sir William, succeeded; and, by his attainder for high treason, the estate was surveyed in terms of the vesting act. Captain John Gordon, Sir James's second son, and next heir of entail, Sir William as yet having no children, entered a claim for the estate before the Court of Session, upon this medium, That the estate being entailed could not be forfeited for Sir William's treason. The cause being given for the claimant here, and appealed to the House of Lords, it was Adjudged and Declared, ' That Sir William Gordon; the person attainted, being, under the settlement made by his father Sir James, seised of an estate-tailzie in the barony and estate of Park; notwithstanding such tailzie was affected with prohibitive, irritant, and resolute clauses, the said barony and estate of Park did, by virtue of the statute of the 7th year of Queen Anne, cap. 21, become forfeited to the crown, by the said Sir William Gordon's attainder, during his life, and the continuance of such issue-male of his body as would have been inheritable to the said estate-tailzie in case he had not been attainted, &c.; and that, by virtue of the substitution to the heirs-male of the said Sir James Gordon's body of his then present marriage, the respondent, John Gordon, hath right to succeed to the said barony and estate of Park, after the death of the said Sir William Gordon, and failure of such issue-male of his body as aforesaid.'

The form of giving infestment to a remainder-man, or conditional institute in an entail where the former heirs are exhausted by attainder, is by the director of the chancery issuing a precept for that effect, if the lands hold of the crown; or by letters of horning against the superior if they hold of a subject.