

that title had infeft Lochiel as his vassal, but had sufficient right to them by his apparenacy ; and so was Lochiel's superior, on which title he claimed his estate, *voce* FORFEITURE.

No 11.

*Pleaded* for Urchany ; There is no *ipso jure* extinguishing of feudal rights ; but they must be taken away in a proper manner. The Earl of Dundonald disponed lands to his son the Lord Cochran, and infeft him base ; and, on his death, disponed them to his grand-son, who was infeft ; and disponed them to the Marquis of Clydsdale, No 3. p. 1262. It was found, that the disposition only carried the superiority ; and the apparent heir, after his death, in the base infeftment, carried the property. And the like decision was given in the case of Menzies of Culterallers, and Dickson of Kilbucho. *See* HEIR APPARENT.

*Replied* ; In both these cases the infeftment was in the superiority, and the disponers were apparent heirs to the property ; but their onerous debts were sustained to affect the estate ; and the subsequent heirs, making complete titles to the property, were preferred only to their gratuitous disponees.

*Observed* ; That both superiority and property were irredeemable rights, and distinct ; but a wadset was redeemable, and considered as an incumbrance on the property.

THE LORDS repelled the objection made to the infeftment granted by William Ross of Easterfearn, to Captain David Ross ; and found, that the said William Ross having purchased the irredeemable right to the property of the west quarter of Meikle Allan, it was not necessary that he should make up a feudal title to the wadset of the said lands, that was in the person of Alexander Ross his father, and in which he was apparent heir ; and that these incumbrances could not be taken up by the creditors of the said William Ross, or of Alexander his son, as rights preferable to the property that was vested in William Ross.

Reporter, *Drummorc.* Act. *Lockhart.* Alt. *R. Craigie.* Clerk, *Gibson.*  
*Fol. Dic. v. 3. p. 162.* *D. Falconer, v. 2. No 235. p. 287.*

1757. December 1. GORDON against MAITLAND.

No 12.

A PERSON being creditor in several debts upon an entailed estate, the LORDS found, That the debts were not extinguished *confusione* ; but that, after his death, his heirs whatsoever could pursue for them against the succeeding heir of entail.

*Fol. Dic. v. 3. p. 162.*

\*.\* *See* The particulars of this case, *voce* TAILZIE.

Apparent heir, applying the rents for purchasing an adjudication, operates an extinction ; *see* PAYMENT.

*See* Glendinning against Nithsdale, *voce* PASSIVE TITLE. *See* APPENDIX.