

E S C H E A T.

S E C T. I.

Effect of Horning.

1593. *January 1.*

FINLAYSON *against* JACKSON.

ONE Finlayson pursued one Wallace and Jackson as donatar to the escheat of another Jackson, to pay to him the debt for which the said Jackson was put to the horn, and his escheat disposed to this defender. It was *alleged*, that this plea could not be pursued, because he had not intromitted with any of the said party's goods, at the least not so much as could amount to this debt. It was *answered*, that it was provided by the act of Parliament, that the donatar should pay the sum contained in the horning, and so it being voluntary to him to have taken the escheat or not, it being taken and meddled with, he behoved to pay the debt; which answer was found relevant. Farther, it was found in the same cause, that letters of horning being registered, albeit the executions upon the back were not subscribed by the sheriff-clerk, yet the horning is sufficient if the user offer him to prove that the executions are registered.

1593. *December 27.*—Then it was found that this action was grounded upon an act made in *anno* 1579, and was competent against all donatars since that time.

Fol. Dic. v. 1. p. 253. Haddington, MS. No 264.

1598. *February.* MASTER of ELPHINGSTON *against* ERSKINE of BAGONIE

THE Master of Elphingston's son having denounced the laird of Carden for certain sums of money which he was decerned to pay to him, thereafter pur-

No 1.

The donatar was subjected to the debt in the horning upon which the gift was taken, altho' he neither intromitted nor intended declarator, unless he renounced his gift *rebus integris*.

No 2.

Found as above.