

and being denounced at the market-cross of Edinburgh, pier and shore of Leith, and registrate ; his liferent escheat fell to the King.

*Act.* Mackenzie. *Alt.* Cunyghame.

*Advocates' MS. folio 56.*

1666. *July 12.*

Anent PRESCRIPTION.

ONE being infest in an annualrent, and having obtained decret for pointing of the ground, against the tenants, without calling of the heritor ; this decret was sustained as a sufficient interruption of the prescription of the right, though the heritor was not called.

*Advocates' MS. folio 56.*

1666. *July 12.*

Anent NOTARS.

CO-NOTARS subscribing a bond, or assignation, or writ of importance, *diversis temporibus*, and not *unico contextu*, it is null *ipso jure* ; and it was contraverted if the subscription by one notar may stand good for L.100, and the other's subscription for another L.100, though at divers times.

*Act.* Lockhart.

*Alt.* Sinclair.

*Advocates' MS. folio 56.*

1666. *July 12.*

Anent ESCHEAT.

ONE being condemned by an assize for receipt of theft, and the Judge having mitigated the punishment to L.100 Sterling, to be paid within twenty-four hours ; and being so paid, one takes the gift of his escheat, and craving declarator, it came to be debated if the verdict of one assize could be a ground of escheat, and if a judge might mitigate the punishment which is imposed by law, *vid.* hanging, and confiscate his moveables, or irrogat a mulct, in lieu thereof ; and if the king may be prejudged of that casuality of escheat by this mitigation of the pain. *CONTENDED nemo debet subjici duplici pœnæ* ; and the pain being declared by the judge to be L.100 Sterling, his moveables cannot now be confiscated, nor escheat declared, on that ground.

This the Lords repelled, and found no Judge Ordinary could mitigate the punishment irrogat by act of Parliament, and therefore declared the gift.

*Act.* Lockhart.

*Alt.* Cunyghame.

*Advocates' MS. folio 56.*