1671. *January* 24. KEIR *against* NICOLSON.

No 27.

IT being pleaded, That a liferent escheat having *tractum futuri temporis*, belongs not to the donatar's executor, even as to bygones before the donatar's death, unless they had been liquid and established in his life by sentence, but the gift and all following thereon belongs to the heir; the LORDS found, That the bygones of the liferent escheat preceding the donatar's death, did belong to his executor, though in his life he had obtained no sentence therefor.

Fol. Dic. v. 1. *p.* 367. *Gosford. Stair.*

*** See this case, No 19. p. 5448.

1673. *July* 11. FAA *against* LORD BALMERINO.

No 28.

THE profits of all casualties of superiority which require declarator, are carried and implied in the superiority, and therefore belong only to the superior's heir or singular successor, until separated by gift to a donator, or liquidated by a decree of declarator, because it is *facultatis* of the superior to lay hold of these casualties or not at his pleasure; and as almost all of them arise from feudal delicts, many superiors do not chuse to take these rigorous advantages. Such a privilege, therefore, which is *meræ facultatis* before exercising the same by a gift or declarator, and which presupposes no right established in the superior's person, cannot descend to executors.

Fol. Dic. v. 1. *p.* 367. *Stair. Gosford.*

*** See this case, No 20. p. 5449.

SECT. V.

Effect of Substitutions.

1686. *July* 25. A. *against* B.

No 29.

A SUBSEQUENT Sheriff-depute cannot discharge a fine imposed by his predecessor, seeing it belongs to the predecessor, and not to him. *See* APPENDIX.

Fol. Dic. v. 1. *p.* 367. *Fountainhall.*