

cases with us, as is usual between eminent judicatories, that we may promote his Majesty's service, and give a testimony that we \* \* \* \* \*  
 \* \* \* \* \* " *Vide infra*, No. 574, *Dalmahoy*,  
 [June, 1677.]

*Advocates' MS. No. 507, folio 265.*

1676. *November.*

ABOUT this time it was inquired, where a liferentrix and a minor are both convened anent the reduction of an heritable right, and the minor propones upon the maxim, *quod non teneatur placitare*, if the liferentrix may be compelled to answer? One would think not, *ob contingentiam causæ*, which cannot be divided. So teacheth Craig, *libro 2 feud: Dieg: 12*, page 220, confirmed there in the margin, from *Regiam Majestat.* and the Roman law; and Dury, 25th November, 1624, *Hamilton*; vide *Legem 10 in princ. D. Quemadmodum Servitutes amittuntur*. Yet they affirm the Lords found she should answer; which seems hard, for she will recur on the warrandice, and so the minor will be put consequently to answer and debate.

*Advocates' MS. No. 508, § 1, folio 266.*

1676. *November.* ISOBEL GUTHRIE, and LINDSAY of Pitscandly, her Husband,  
*against* \_\_\_\_\_

ISOBEL GUTHRIE, sister to the Laird of Guthrie, and Lindsay of Pitscandly, her husband, for his interest, pursuing a special declarator of the escheat single of the last Laird of Guthrie, and pretending sundry leases of lands in Ireland fell under the same; it was alleged they did not, because they being tacks set for 59 years' duration, they behoved to be at least reputed of the nature of life-rent tacks, which, by the act of Parliament, 1617, fall not under single escheat, but are only carried by the life-rent escheat. For evincing whereof, it was alleged that a 19 years' tack (which is far short of a 59 years' lease) is in common estimation equivalent to a life-rent tack *quoad* the value, if one were to buy them; and that they ought to be so reputed as not to fall under a single escheat, may be urged from Stair's system, *Tit. 13, No. 4, in fine, pagina mihi 170*; and Hope's Collection of Practicks, *titulo* Hornings and Escheats, pages 192 and 198. They talk of an old decision about this, *The Earl of Louthian, contra* \_\_\_\_\_

There was another defence against this special declarator, viz. that thir leases could not fall under a Scotch outlawry and denunciation, they lying in Ireland, an independent kingdom, and ruled by different laws. But see more of thir two defences, *infra*, No. \_\_\_\_\_ and in the informations. *Vide infra hoc eodem numero, § 12.*

*Advocates' MS. No. 508, § 2, folio 266.*