

*orbitas* shall be penal to his subjects. *Vide* Dury, 14th January 1626, *Hamilton*; and 7th July 1629, *Lord Cathcart*.

This decision was thought strange; since they who have componed for their wards and marriage, with the King, are, by the Act of Parliament 1661, secured that no other superior shall claim any right to the casualty of their marriage. Yet the Lords went upon this ground, that they saw not the erection of the principality; and if the King Erector had been asked to whom the principality should belong, in case he had no son or daughter, law *verisimiliter* presumes he would have answered that the Prince's lands in that case should remain with himself and his successors as his own. See the like presumptions in *L. 6 et seq. D. de Pignor.* *Vol. I. Page 72.*

1680. January 6. The DUKE of HAMILTON against BAILLIE of LAMINGTON.

THIS Baillie of Lamington's goodsire having some lands holden ward of the King, and other lands holden ward of the Duke of Hamilton; he disposes the lands holden ward of the King to this Lamington his grand-son, whereupon he is infeft in his goodsire's lifetime; so that the King had neither the casualty of ward nor marriage to seek. But Duke Hamilton craving his marriage, he being the next ward superior after the King, it was ALLEGED,—Where a vassal holds ward of the King as well as of a subject, that then the subject superior could not crave the marriage. Yet here it was found that Duke Hamilton had right to his marriage: and Lamington was forced to compone with him for it, and gave him L.1000 sterling.

If he had taxed his ward and marriage holden of the King, conform to the 58th Act of Parliament 1661, then he would have been free of Duke Hamilton. *Vol. I. Page 73.*

1680. January 6. ANENT APPRISINGS.

ONE apprises ward-lands, and is infeft, and dies: his heirs are pursued for the ward and marriage. ALLEGED,—*Absolvitor*, Because he is but an appriser of the reversion, and for the behoof of another whose trustee he is, and to whom he hath given a back-bond; and there is another who hath a comprising consummated by infeftment before him, and so the first appriser only is the King's vassal. REPLIED,—By apprising the reversion, the second appriser is come in place of the heritor, and so the casualty was opened by his decease.

*Vol. I. Page 73.*

1680. January 6. PARK against STORIE.

ONE is cautioner for another *judicio sisti et judicatum solvi*; whereupon being pursued, *pendente lite* the principal party dies, and there is a transferring of