

1557. May 28. The QUEEN and her COMPTROLLER against HAMILTON.

ANENT the action pursued by the Queen's Grace, and her Comptroller, against Sir John Hamilton of Avondale, Knight, for the wronguous intromitting with the mails and profits of the lands of C, pertaining to our Sovereign Lady, by reason of excambion made by King James the V., and the said Sir John's father, betwixt the lands of C. and the lands of K.; it was *alleged* by the said Sir John, that he did no wrong in the intromitting with the mails of the said lands of C, because it was provided, in the charter made by our Sovereign Lord, and the said Sir John, that the father, nor his heirs, should not intromit with, nor uptake, the mails of the said lands of C, so long as he or they bruiks peaceably the lands of K; and that the said Sir John might not bruik peaceably the said lands of K, because the Lord Boyd was served by a brief of the said lands, and obtained sasine and real possession thereof; in respect of which, the said Sir John did no wrong in intromitting with the mails of C, he being secluded from K, as said is. It was *replied* by the said Queen's Advocate, That the said Sir John might have stopt the serving of the said brieve, raised by the Lord Boyd, by production of the said Sir John's father's instrument of sasine to the inquest the time of serving. It was *alleged* by the said Sir John, That howbeit he had produced the said sasine, as said is, it would not have stopt the serving of the said brieve, because the infestment made to his father by King James the Fifth, and sasine past thereupon, was made in the King's less age of twenty-one years, and therefore came under his general revocation, and was null in itself, and might noways have stopt the brieve. It was *answered* by the Queen's Advocate, That the said infestment, and sasine past thereupon, were made after the King was of twenty-one years complete, which was his perfect age; so that any thing done by the King, after that he be past twenty-one years, came not under his general revocation, nor may be revoked; which was found relevant by the Lords' interlocutor, that the King was of perfect age of twenty-one years, and might not revoke any thing done by him of that age; and the said Sir John's allegiance repelled by the said Lords.

*Fol. Dic. v. 1. p. 524. Maitland, MS. p. 122.*

1569. March 17. BALFOUR against BALFOUR.

ANENT the action of reduction pursued by David Balfour younger, against David Balfour elder, his father, for reduction of a charter of certain lands, set in feu farm, by the King's grace, to the said defender, with a clause contained in the charter; it was *alleged* by the donatar to the King's grace, That the charter made to the defender should be reduced; because it was contained in the said charter, that if the said defender annalized, or put away, any of the

No 8.

The King's perfect age found to be twenty-one years complete, so that whatever is done by him after that age, comes not under the general revocation.

No 9.

Lands being feued by the King, with a clause irri- tant, in case of alienation, a simple writ from the King, em-

No 9.  
powering the  
feuer to alie-  
nate, not  
having the  
comptroller's  
consent, nor  
having past  
the seals, was  
found no suffi-  
cient warrant  
to aliqnaite.

said lands, or any part thereof, without consent, the said charter should be of no force nor effect, but null in itself, and redeemable. It was *alleged* by the said defender, That he had made no alienation of the said lands, nor no part thereof, and therefore his charter should not be reduced. It was *alleged* by the said pursuer, That albeit the said defender had not annalized any part of the said lands, yet he had annalized so meikle annualrent forth of the said lands, which annualrent was almost the whole profit of the said lands, which is alike as if he had annalized the whole lands; which allegiance of the said pursuer was found relevant. And also it was *alleged* by the said defender, that albeit he had annalized the said annualrents, as is alleged, the charter should not be reduced, because he had obtained licence of the Queen to do the same; and, for probation thereof, produced a writing in paper, subscribed by the Queen. It was *alleged* by the pursuer, That that writing should have no faith nor strength of a licence, because the lands contained in the charter of the defender were of the King's property, and set in feu, with consent of the comptroller; and therefore the Queen, without consent of the comptroller, might not dissolve the clause irritant, because it was hurtful to the Crown; and also, because it was a simple writing, subscribed by the Queen, and not past the seals, which allegiance was admitted by the LORDS for both the causes foresaid, alleged by the pursuer.

*Fol. Dic. v. 1. p. 523. Maitland, MS. p. 195.*

1602. January 20.

MASTER of ROTHES *against* The ABBOT of ST COLME.

No 10.  
A new rega-  
lity, neither  
granted nor  
ratified in  
Parliament,  
found to be  
no regality,  
in terms of  
act 43d Parl.  
1455.

THE Master of Rothes, as Sheriff of Fife, pursued a malefactor in the Sheriff-court; the matter is sought to be advocate by the Abbot of St Colme, and to be remitted to him in respect of his regality. For instructing of his interest, he produced the gift of the said Abbacy disposed to him by his Highness upon his father's demission *cum privilegio regalitatis solito et consuet.* It was *alleged*, That the gift and provision would make him no right of regality, because it was provided by act of Parliament, that no gift of regality should be disposed but by advice of the estates of Parliament, which was not in this case. *2do*, This regality was given in the King's minority, and so was null and revoked. *3tio*, Where it was relative to the former regality, competent to the said Abbacy, that could work nothing, unless it were verified and shewn, by an express authentic instrument, or act of adjournal, that the said Abbacy had express regality disposed by charter to them of old, as the regality had been lawfully authorised by act of adjournal. Which allegiance was found relevant; and that a new regality relative to an old, could not subsist unless.