

S E C T. II.

Alienation after Rebellion bars not the Completing Rights, where there is an antecedent obligation.

LORD FORBES *against* MARQUIS of HUNTLY.

No 47.

ALTHOUGH the act of Parliament annul all assignations made *stante rebellione*, yet if lands be disposed before rebellion, the rebel may make assignation of any warrandice competent to him, with consent of the buyer; because the same is accessory to the disposition of the land, which was sold before he was rebel.

Fol. Dic. v. 1. p. 555. MS. Decisions at the end of Pitmedden's copy of Colvil, p. 85.

No 48.

A bond granted after denunciation sustained, being granted in satisfaction and implement of a contract anterior to the rebellion.

1676. *January 28.* JACKSON *against* SIMPSON.

IN a competition betwixt Charles Jackson, as creditor to one Vanderstraiton, who had then arrested and obtained decret, and Alexander Simpson, as donatar to Vanderstraiton's escheat,

THE LORDS found, That the arrester's debt, albeit by his bond dated after the rebellion, yet being for implement of a contract anterior to the rebellion, did affect the escheat goods, and was preferable to the donatar, albeit this bond was not in corroboration, but a new bond, upon a discharge granted of the foresaid contract.

Fol. Dic. v. 1. p. 556. Stair, v. 2. p. 407.

* * * Gosford reports this case :

1676. *January 27.*—IN a multiplepinding raised at the instance of one Douglas against the Creditors of Vanderstraiton, compearance was made for Alexander Simpson; and for him it was *alleged*, That he ought to be preferred, because he was donatar to Vanderstraiton's escheat, and had intented declarator against James Douglas, who was Vanderstraiton's debtor, for payment thereof; and this debt belonging to the rebel, *ipso momento* that he was denounced at the horn, it belonged to the King and his donatar.—It was *answered* for Charles Jackson, That, notwithstanding, he ought to be preferred, because, being a lawful creditor to Vanderstraiton, by virtue of his bond, before any gift or diligence thereupon, he had arrested in Douglas's hands, and obtained a decret to make furthcoming, whereby he had been constituted Douglas's proper debtor;