

giving that power to his son, doth by his son dispoſe to a ſtranger ; and as this is quadrant to law, ſo if the contrary were ſuſtained, here were an approved way laid down to evacuate all recognitions by diſpoſing to the eldeſt ſon, and he to ſtrangers.

THE LORDS found the libel relevant, and ſuſtained the recognition upon the ſon's alienation of the major part.

In this caſe, the ſon did not purge the diſpoſitions made by him, during his father's life, and did ſurvive his father, and ſo became directly vaſſal ; but it did not appear, whether he was actually ſerved and infeſt in the lands as vaſſal.

Fol. Dic. v. 2. p. 315. Stair, v. 2. p. 275.

No 13.

1676. *January 7.* COCKBURN *against* COCKBURN.

SIR James Cockburn of Ryſlaw purſues declarator of recognition of the lands of Eaſter Prantunan, holden ward of the King, as fallen in recognition, by an infeſtment granted by James Cockburn of Ryſlaw, to Ninian Cockburn his natural ſon, *anno* 1643 ; and calls Cockburn of Chouſlie, as apparent heir to Ryſlaw ; who *alleged* abſolvitor, becauſe, by the act of Parliament 1641, it was lawful to ſet feus of ward-lands holden of the King, and albeit theſe acts be reſcinded, yet there is a *ſalvo* of rights acquired by them ; and though they were not, the granting of ſuch rights at that time could be no contempt or ingratitude againſt the ſuperior. It was *answered*, That though there was no contempt at that time, yet it became a contempt, in ſo far as no application was made to the King, or Exchequer, for a confirmation after his return, and after the reſcinding of theſe acts, as hath been frequently ſuſtained by the Lords.

THE LORDS repelled the defence, in reſpect of the reply.

Fol. Dic. v. 2. p. 315. Stair, v. 2. p. 393.

No 14:
Recognition ſuſtained upon a wife's infeſtment of ward, in the year 1643, though, by the laws then ſtanding ſuch were allowable, ſeeing after the reſcinding of theſe laws, there was no application made to the King for confirmation.

1678. *February 14.* ARBUTHNOT of Know *against* MARGARET STRAITON.

THE LORDS found the lands recognoſced, but the Lady *alleging* ſhe had a right of liferent, by virtue of the firſt infeſtment of theſe lands granted to her huſband, whereby he acquires the lands to himſelf and her, the longeſt liver of them two, whereby they are publicly infeſt, the LORDS ſuſtained this infeſtment to continue her liferent.

Fol. Dic. v. 2. p. 316. Fountainhall, MS.

No 15.

* * * The ſame caſe is afterwards mentioned alſo by Fountainhall.

November 6. 1678.—In the improbation purſued by Alexander Arbuthnot againſt Margaret Straton, for improving a bond granted to her huſband betwixt her contract and marriage, the LORDS declared they would ſummarily call it in the Inner- houſe, only upon fourteen days advertisement, as being