

also the adjudications at Walter Reid's instance, led for the behoof of the said Mr James, for evacuating his trust for defrauding of other creditors, with the hail grounds and warrants thereof, that the LORDS may know the trust and fraudulent conveyance used by the defenders; with certification, that if they did not produce the said writs, betwixt and a certain day, would grant a term in the improbation conform to the pursuer's libel.

*Sir P. Home, MS. v. r. No 500.*

No 60.

1684. *March.* SECRETARIES OF STATE *against* ANDREW CRAWFORD.

IN a reduction at the instance of the Secretaries of State, of a gift of the office of Sheriff clerk granted by the Duke of Lauderdale, (then Secretary) to Andrew Crawford, upon this ground, that it did not contain the *modus vacandi* by Mr Andrew Ker the former clerk's death, demission, or deprivation, but adjoined Crawford to Ker, giving him the right of survivance after Ker's death, without any title to the profits *medio tempore*.

*Answered*; The reason of reduction is not relevant, in respect Ker and his son being conjunct in the office, with a clause of substitution, the father upon the son's death, made a demission of the half of the office *in favorem*, upon which the Duke's gift proceeded; and old Ker having died some years before the Duke, to whom the casualty fell if it had vaked by Ker's death, since the Duke did not quarrel the same, nobody else could; nor is it unusual to grant gifts to two persons with a clause of substitution and survivance, as was formerly found in the case of Commissaries and their clerks, and lately in the case of Alexander Maitland and his son Charles.

*Replied*; The granting of offices by way of conjunction and substitution, is very prejudicial; and if they may name two conjunct, they may, by the same reason name six.

THE LORDS assoilzied from the reduction.

*Harcarse, (IMPROBATION AND REDUCTION.) No 548. p. 152.*

1685. *January 8.*

SIR PATRICK HOME *against* The VASSALS OF COLDINGHAME.

SIR ALEXANDER HOME having disposed some lands of Coldinghame he stood infest in, to Sir Patrick his brother, who did not infest himself, a reduction and improbation was raised in both their names, against his vassals of Coldinghame, and terms taken; and Sir Alexander having afterwards, upon some incident differences with his brother, disclaimed the process, Sir Patrick craved certification in his own name.

No 61.

The Secretaries of State were refused reduction of a gift of an office granted by a former Secretary, in a manner, which, if irregular, he only would have been entitled to challenge.

No 62.

Action was sustained, where the disponent infest, and the disponent uninfest were joint pursuers, although during the