

from the French *Escheat* to fall. But our Law restricts it to *Movables* and *Liferents*, whence arose the Terms of *single* and *Liferent* *Escheat*; of both which (tho' the latter only falls within the Design of this Section) shall here treat, because of their Contingency, and having the same Foundation.

*Single Escheat*, is a Forfeiture of all *movable Goods* and *Debts*, being owing to a Person outlawed for a *Capital Crime*, or denounced and registered at the *Horn* for *Debt*, or the Performance of a *Deed* or *Promise*, or for some other Cause, at the Time of the *Denunciation*, or that he shall acquire within *Year and Day* thereafter till he be released from the *Horn*. Which fall to the *King*, because *bona mobilia* are *allodialia* and hold not in the ordinary *Superior* *McKenzie Observ. in Act 2. Par. 4. §. 5.* Unless the *Rebel* or *Outlaw* live and be denounced within a *Regality*, whereof the *Lord* is invest with the *Privilege of Escheats*; in which Case, the Cause belongs to the *Lord of Regality*, who hath Right to the *Rebel's Goods* in *year quoad fixum* (vid. *Supra* Part. 2. *Book 2. Chap. 2. §. 5.*) whereupon both within and without the *Regality*, 26 June 1680 *Yunis contra L. Napier*. *Quia mobilia sequuntur personam* *Stewart* Answers to *Let Doubt's Tit. Confiscation & Tit. Regality*. *Regalities* are ordinarily directed with the Benefit of *Single Escheats* falling by *Forfeiture*; but such *Escheats* of *Inhabitants* in a *Regality* falling by *Forfeiture*, remain to his Majesty, *Hope min. Pratt. Tit. Liferent Escheat §. 195.* *Quaritur* if a *Regality* implies a Right to *single Escheat* upon *Forfeiture*, the not expressly disposed in the *Charter of Execution*? *Sir John Nisbet & Sir James Stewart* say, that in the common Opinion a *Regality* doth import a Right to such *Escheats* *Stewart* (vid. *Tit. Regality*. And *Sir John Doubt's* of the *Law Tit. Lords of Session*) seems to think, that a *Right of Regality* will under the general Clause carry *Escheats* upon *Forfeiture*. But *Sir George McKenzie* (*Inst. Lib. 2. Tit. 5. §. 23.*) will have them to remain due to the *King*, unless expressly gifted. Perhaps for these Reasons 1. *Escheats* upon *Forfeiture* are *inter majora regalia*, whereof the Right are *stricti juris*. 2. They fall for direct Contempt of the *King's Authority*, and all Letters of *Forfeiture* bear that the *Rebel's Goods* shall be *Escheat* and brought in to his Majesty's Use 3. *Regality* being a *Privilege of Jurisdiction*, and Exemption from the ordinary Courts of *Justices* and *Sheriff*, should *via natura* carry only *Escheats* incident to *Jurisdiction*, as *Mulcts* and *Fines* of Persons *unlawed* or sentenced in the Court of *Regality*. 4. A *Declarator of Escheat* cannot be *perpues* before

a *Regality* Court, but only before the *Session*. *Lords* and *Baillies* of *Regality* having Right to the *Escheats* of *Transgressors*, for their own behoof without being accountable to the *King*, are always in Use to intrude summarily with the goods of a *Trier* who is declared *fugitive* by an Act of Court, without *Forfeiture* or other *Process of Law*, and such *Intrusion* is warrantable, 6 Decemb. 1672 *Jones contra Dow*.

The *Movables* falling under *single Escheat* are *Rents of Lands* or *heretable Bonds* (July 1626 *Haliburton contra Stewart* and *Clauses of Relief* in such *Bonds* *Stair Lib. 3. Tit. 2. §. 15.* Because these are only *personal Obligations*. *Single Escheat* carries a *lim sue* in the *quoad* *Value* of an *Obligation* not to *alienate Lands*, which was found *movable*, *quoad* *Escheat*, albeit it came in *Place* of a *heretable Right* that would have belonged to the *Heir* 4 Fev. 1663 *L. Phillock contra Lord Fraser*. This *Casualty* would also reach *sums* carrying *annualrent* or *lege*, as *Bills of Exchange* after the Term of *Payment*. Tho' it would not carry *sums* bearing *annualrent* or *paid* as *personal Bonds* containing *Clauses* for *Payment* of *annualrent* which are accounted *heretable* as to the *Feud* Act 32. *Par. 1. Sect. 1. Ch. 2.* The *single Escheat* doth carry *Tacks* not for *Life*, tho' these be not *movable* with Respect to *Escheat*, *Rentals of Lands*, *Spotswood* *Pratt. Tit. Escheat* and *Originations* to *liferent Tacks* 23 July 1625 *Sir Robert Ker contra* or other *liferent Rights*, for that such are not *liferents* in the *Person* of the *Assigny*, who has only the *Profits* during the *Tenant's* *Life*. His *mariti*, and any *liferent* vested in a *Wife* fall under the *Husband's* *single Escheat* 22 July 1662 *Montgomery contra Montgomery* 24 Feb. 1629 *Pollock contra Kerr* and *Sample*. For the same Reason, that an *assigny* *liferent* is carried by the *Assigny's* *single Escheat*. A *Wife* being denounced for her own *Debt*, and her *Husband* denounced also for his *Interest*, the *Denunciation* against the *Husband* tho' *pro interesse*, was found *effectual* to carry his *jus mariti* to the *Wife's* *liferent*, albeit the *Denunciation* of the *Wife* was null, she being *vestita viro*, and *regulariter sublato principali tollitur accessorium* 22 July 1675. *Menzies contra Kennedy*. A *Superior's* *single Escheat* carries his *Vassal's* *liferent Escheat* fallen to the *Superior*, before he was *Year and Day* at the *Horn* *Stair* (vid. *liferent Escheat*, or any other *gifted Casualty*, falls under the *Notary's*