

c to be intromitted with and disposed of at his Pleasure; Conform to the Laws
 c and Prattice of this our Realm in all Points &c. The Summons bears Harrow
 will all Parties having Interest at the Market-Cross of the head Burgh in
 the Jurisdiction where the Rebel resides. But that is only slyllis Curia, for it
 sufficeth to cite the Rebel if alive 27 June 1666 Masson contra.
 When the Rebel is dead, the Pursuer, if he design to carry Heirship Moveables
 must call the Rebel's Heir. But for affecting other Moveables, the Wife or
~~other~~ nearest of Kin need only to be cited. And if the Rebel be Extrad
 -firmed, it sufficeth to call her. Hair Fid. 9. 22. Seeing Extrad qua nearest
 of Kin used not to be confirmed to Persons dying at the Horn. The Pursuer
 Title is the Gift and Horning, and Extract whereof makes Faith as the Prin-
 -cipal Act 43. Par. 6. 9. 6. No Defence is receivable against this Decla-
 -rator, on any Objection against the Horning not instantly verified, which
 will be referred to Reduction, albeit the Kings Advocate be Pursuer: Because
 the King may upon the same Horning have Interest in the Liferent Escheat
 Hair Fid. 9. 24. & Lib. 4. Tit. 10. 9. 5. Nor will any Exception be received a-
 -gainst the ground of the Horning, as not due or satisfied before Denunciation
 -tion, tho' instantly verified scripto Ha. Pratt. 12 January 1610 Dusham contra
 Cleland 30. Novemb. 1630 Douglash contra Ward Law. Because the Kings
 Officers are not called to defend his Majesty's Interest, and obsolete Collu-
 -on upon forged Discharges or other Ways; and the Donatory's Interest
 being often small by Reason of his Backbond may be tempted to collude to
 the prejudice of the Fisk. But an Exception that can have no Appearance
 of Collusion, or a visible Nullity in the Horning, as that it was suspended
 before Denunciation, is admitted sometimes to be proponed without Re-
 -duction Hope Maj. Pratt. Tit. Horning Sheriff of Murray contra
 Hair Lib. 3. Tit. 3. 9. 24. Exceptions of any Party pretending a better
 Right to the Escheat Goods, use not to be received in the general Declarator
 Declarator, but to be reserved to the Special; the general being only an
 Intimation, and proceeding summarily.

The Donatory having declared, may pursue for the Recovery of the Escheat
 Goods and hear by a special Declarator. Which may be either couched in the same
 the same Libel, a Decree of general Declarator must be extracted before he
 insist in his special Declarator Hair Fid. 9. 25. The Decree of general Declarator
 is a sufficient Title in the Action of special Declarator, without Necessity to
 produce the Gift or Horning. 30 Feb. 1627 Donator of Stewart's Liferent
 contra a Debtor 20 Novemb. 1629 Lundie contra Lundie. The Rebel or any re-
 -presenting him need not to be cited, but only the Heirs or Intromitters with
 the Escheat Goods Hair Fid. A second Donatory hath good Interest by his
 Gift

Gift and the Horning whereupon it proceeded to appear and compete in the
 special Declarator at the first Donatory's Instance, albeit the second hath
 obtained no general Declarator of his Gift; but the Gift without the Horning
 is not sufficient 20 Novemb. 1629 Lundie contra Lundie. No Defence is com-
 -petent in the special Declarator by Exception or Objection against the Gift or
 Horning, but only by Reduction; unless by Exceptions proponed and verified
 in the general Declarator as incompetent, and reserved to the special De-
 -clarator Hair Fid. & Lib. 4. Tit. 10. 9. 5. The Lord Stair (Lib. 3. Tit. 3. 9. 26. Ver-
 -As to legal Diligence) asserts, that albeit Gifts of single Escheat require
 general and special Declarators to complete them; Liferent Escheat is ef-
 -fectual by one general Declarator for all, finding Year and Day to stay
 -ed since the Rebel was denounced without Relaxation. Might that same
 Author in another Place (Lib. 4. Tit. 9. 9. 5) says that a Concussion of this
 due Julys uses sometimes to be insert in the Declarator: But more regularly a
 Summons of Mails and Duties should be raised and proceed with them to
 Declarator that so soon as the Declarator is extracted the Possessor may
 in the Action of Mails and Duties. Which seems not consistent with the
 rent Escheat's being effectual by one general Declarator. Sir George Mackenzie
 of Mails and Julys in his special Declarator Sir George Mackenzie
 (just Lib. 4. Tit. 9. 15) says, that in a general Declarator of Escheat the
 Disputes concludes that it should be found and declared, that the Rebel's
 Escheat fell in the Superior's Hands; and in the special Declarator con-
 -cludes that the Tenants of the Rebel's Lands may pay him the Mails and
 Duties, which can be understood only of Liferent Escheat; seeing the single
 Escheat belongs not to the Superior but to the King. Whatever may be in
 this Matter, it was indeed once pleaded 28. Novemb. 1710 Little Play con-
 -tra Creditors of Spot that a Gift of Liferent Escheat needed no Declarator to
 complete it. There is also this Difference betwixt the single and Liferent
 Escheat, that the former falls to the Sovereign jure Coronae by the Rule of
 whereas the latter is competent to every Superior by Reason of the Fee and
 that the Vassal being in the Construction of Law capite manutus cannot sue
 the Superior.

The Tenor of a Summons of a general Declarator of Liferent Escheat is as
 c follows. Our Will is, and we charge you that ye lawfully summon B. to appear
 c &c. to answer at the Instance of A. who stands in Feit in the Lands of &c. by
 c Precept Charter or Disposition and Seisior following thereupon dated &c. and
 c thereby having Right of the Property of the same, at least of the Superi-
 c ority thereof, and thereby hath Right to the Rents Duties and Profits of the
 c same: That is to say (In case the said B. shall produce and instruct his Right
 c to the Property or Liferent of the said Lands as Vassal therein) to hear and see
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