

Inventary is, that heirs are liable^{to} all their predecessors debts: where as the Sovereign is Accountable to Creditors only in so far as the goods and estates Confiscated do amount to, Gul. Clar. Sent. lib. 5 § fins. Quas. l. p. n. 30. Stat. Malthe de Crim. lib. 4 § Tit. 18 Cap. 2 n. 22 Jo. Voets. Comm. ad Tit. fide Bonis Damnat. n. 7 in fins.

Property may be confiscated in the second volume 2.1

Property comes to be Confiscated upon several grounds as 1^o High Treason 2^o for lesser Crimes and by all Lawes, ~~which~~ hath been spoke of already. In part 3 Book 1 Chap. 3 § 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.

Tit. 1. Confiscation of property for want of a lawful successor to the owner.

We must Distinguish those whose property falls under Confiscation for want of a Lawful Successor, into Aliens and Subjects. The King is entitled by his prerogative to the Lands and Tenements of an Alien dying in England, Broock Abbing. Verb. De heredit. n. 17 fol. 1. Inst. 2. 8.

Confiscation of a Subjects property for want of a Lawful Successor. The owner is of two Sorts, viz. Ultimus heres and Bastard. I propose to treat first Separately, in so far as they differ; and then jointly in what things they agree.

of Ultimus heres.

Ultimus heres, is a right by which the King succeeds at last in or rather for want of an heir, to any whose Stock of Riches is spent; so as no person can claim Contingency of Blood to him, & the Kings right is founded on this, that the goods which happen to have no Master pass naturally to the use of the publick, and account to the prince, who is head of the State; and to whose use goods of that kind and other Excesses are appropriated by the publick for the Maintenance and Support of the princely Dignity.

It hath been contravened, when a Queen Remov'd is understood in law to fail, so as to make place for the last heir a Buton says: yet are of opinion that the King cannot succeed so long as any can prove the Remov'd Contingency of blood to the Deceased Craig. Fines lib. 2 fol. 17. § Stair lib. 3 Tit. 3 in fin. M. S. in fin. lib. 3 Tit. 8 § 10. Sir George Mackenzie lib. 1 Tit. 10 § 11 says, that if land be taken by a man, his self and heirs Male simply, the Deceased other Superior will succeed at last heir, if there be no Remainder.

Male, tho' there be heirs female, and therefore the Clause which failing to heirs what soever is ordinary in Writs. But that Author again in his treatise of Tailzies justly corrects himself. For there ought to be no last heir, while any person can make up a title to the fee as heir of line, which no man ought to fore fail for the error of a Notary or Writer in neglecting the final ye Clause of heirs what soever. I find that the King succeed in the fee for want of an heir than as heirs. Because the last heir doth so far resemble an heir, that it takes effect failing other heirs and the inheritance is in case thereof assailable for payment of the debts of the Deceased: yet the King is not properly an heir, but only performs in his judicial Confiscation, since an heir is hereditary Lawe to pay the debts of the predecessors; whereas his Majesty as such is not bound only for Utile Submission.

Craig. Fines lib. 2 fol. 17 § 5. Res. 17. Res. 18. Res. 19. Res. 20. Res. 21. Res. 22. Res. 23. Res. 24. Res. 25. Res. 26. Res. 27. Res. 28. Res. 29. Res. 30. Res. 31. Res. 32. Res. 33. Res. 34. Res. 35. Res. 36. Res. 37. Res. 38. Res. 39. Res. 40. Res. 41. Res. 42. Res. 43. Res. 44. Res. 45. Res. 46. Res. 47. Res. 48. Res. 49. Res. 50. Res. 51. Res. 52. Res. 53. Res. 54. Res. 55. Res. 56. Res. 57. Res. 58. Res. 59. Res. 60. Res. 61. Res. 62. Res. 63. Res. 64. Res. 65. Res. 66. Res. 67. Res. 68. Res. 69. Res. 70. Res. 71. Res. 72. Res. 73. Res. 74. Res. 75. Res. 76. Res. 77. Res. 78. Res. 79. Res. 80. Res. 81. Res. 82. Res. 83. Res. 84. Res. 85. Res. 86. Res. 87. Res. 88. Res. 89. Res. 90. Res. 91. Res. 92. Res. 93. Res. 94. Res. 95. Res. 96. Res. 97. Res. 98. Res. 99. Res. 100.

This Case of Ultimus heres is Specified in a Declaration of Ultimus heres 30 July 1662 L. Balnagoun contra 31 July 1666 Crawford contra J. Edinburgh Declaring the Kings right at last heir, upon the Account that the Deceased had left no Relation behind him; at the Instance of the King or one claiming under his Majesty by gift. Such action proceeds upon a Citation of all and sundry at the Market Cross of the Shire where the person Deceased doth dwell 31 July 1666 Crawford contra J. Edinburgh. Because he hath none to represent him who might be particularly Cited, and a gift of Ultimus heres hath no effect till it be Declared. But if the person Deceased hath a void or surviving heir, he must be particularly Cited; and any pretending to be