

* * * Spottiswood also reports this case :

No. 11.

Thomas Marjoribanks of Ratho was obliged to pay an annual-rent to divers persons, feuers of Chappeltoun ; and for the more sure payment thereof, he assigned to every one of them as much of their feu-duty which was due to himself as effeired to the quantity of the annual-rent owing to them by him. Thomas having dispoined Ratho to the Laird of Ernock, he made him renew the former contract to the feuers. After this, it fell out that some of the feuers sold their lands to others ; which singular successors sought, by way of action, to have Ernock's bond registered, whereby he was obliged to assign to the said feuers, their heirs, executors, and assignees, the foresaid feu-duty. The Lords would not sustain the action of registration at the singular successors' instances, to the end that they might have summary execution upon six days ; but ordained them to pursue by an ordinary action.

Spottiswood, p. 273.

1630. December 9. GOODWIFE of PITLENCHIE, &c. *against* SHARP.

No. 12.

Mr. John Sharp, upon a registered contract betwixt him and umquhile Sir William, his brother, transferred against the said Sir William's sister, Goodwife of Pitlenchie, and her umquhile sister's bairns, children of Dunbar of Burgie, charges them, as heirs to Sir William, to fulfill the said contract, whereby the said Sir William and his heirs were obliged to resign his lands for a mutual tailzie to him and the said Mr. John ; and in special charges the heirs to serve themselves, and thereafter to resign, conform to the contract. They suspended, alleging, That, by the contract, they are not bound to infest themselves, but only to resign ; and therefore they must be pursued *via actionis*, and not summarily charged. The Lords suspend the charge, because they could not make valid resignation, till first they were infest themselves.

Auchinleck MS. p. 172.

1631. March 19. CRICHTON *against* WALLACE.

No. 13.

David Crichton being infest in a land in Edinburgh, by right from umquhile Hamilton, his author, by progress, to which Hamilton, Marion Wallace gave a bond, obliging her to ratify his right ; which bond the said pursuer, as singular successor, desired to be registered at his instance against her. The Lords found, That the pursuer, as singular successor, could not pursue registration of this bond against the defender, so summarily by action of registration, and as heritor of the land,