

1633. *March 20.*LYON *against* STUART.

HELEN LYON being liferenter of the lands of _____ received a bond from George Lyon her umquhile son, whereby he obliges him and his heirs to pay to her yearly for the said lands 100 merks, seeing she was content that her said umquhile son should bruik the same during her lifetime. This was the tenor of the bond, personally conceived to her son, not making mention of his heirs, but only of himself, albeit the son had obliged himself and his heirs to her, for payment of the said yearly duty, by the same bond. Thereafter diverse years, the son being dead, the mother pursues removing against the relict of her son, who defending herself with that bond, and that she had tolerance of her son, who was heir to his father, granter of the bond, and who had the benefit thereof, and of the pursuer's liferent thereby. THE LORDS repelled the allegiance, and found, that this bond, albeit it was accepted of the pursuer, and produced out of her own hands, bearing, that she was content that her son should bruik during her lifetime; that the same was only a personal favour granted to her son personally, and not to his heirs; and that his heirs nor relict had no right to bruik thereby, but was expired by the son's decease, who granted the same. And albeit the bond bore, that the son and his heirs were bound to pay that duty yearly, during the mother's lifetime; whereby it might appear, that the mother might pursue the heir of her son therefor, and that he was obliged thereby to her; yet the LORDS found, that she gave that benefit only personally to her son, and that she was not obliged by the tenor foresaid to continue the same, after her son's decease, to any others his heirs or relict, but at her own pleasure. Here I conceive not how the heirs can be obliged to her, and she not to them.

Act. Hope.

Alt. _____.

*Fol. Dic. v. 2. p. 73. Durie, p. 680.*1635. *March 21.*LO. YESTER *against* L. INNERWICK.

THE LO. Yester having comprised from his debtor an heritable bond, bearing obligation to infeft in lands, which bond being judicially assigned to him by the comprising, whereupon he having charged the debtor of the sum in that bond, to pay the sum to him, as compriser; and the debtor suspending, *alleging*, That a compriser cannot so summarily charge by letters of horning, but ought to pursue by way of action the debtor, to hear him to be decerned to pay the sum; the LORDS repelled this reason, and sustained the charges; and found, that the bond being comprised at the instance of the charger, and the same being thereby judicially assigned to him, the right of the bond was

No 5.

A liferentrix accepted a bond from her son in lieu of her liferent, declaring she was willing he (without mentioning heirs) should enjoy her liferent during her life. Found personal to the son.

No 6.

Summary diligence, to which the debtor has consented by a clause of registration, is a privilege of the bond, and goes along with it to assignees voluntary or legal; for instance, to a compriser.