

these rights, both of wadset, eik to the reversion, and comprising by intromission or payment; for which they ordained count and reckoning: but refused to ascribe the possession to the wadset, and eik to the reversion, only until they were satisfied; so that the reversion of the comprising might expire, and thereby the whole right of the lands taken away for an inconsiderable sum; which was done upon the pursuer's consent and declaration that he was willing that all these rights should be satisfied, providing that the legal of the comprising should be declared to be still current. But if it had been decided *in jure* and strictness of law, it is thought, that, after the deducing of the comprising, and that William Downie had acquired right thereto, his possession could only have been ascribed to the comprising, and not to the wadset or eiks to the reversion, which were no valid titles of possession; and so the removing should have been sustained.

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1671. February 9. LORD RENTOUN, JUSTICE-CLERK, *against* The LAIRD of CRAIGHALL.

IN a double pointing, raised at the Countess of Leven's instance, against the Justice-Clerk and Craighall;—It was ALLEGED for the Justice-Clerk, That he ought to be preferred; because he had arrested and obtained a decret to make forthcoming, against the Countess, of all sums addebted by her to the Laird of Lamertoun; whereas Craighall had only arrested, and led a comprising against the lands of Eastnisbet, which were given in wadset and security to Lamertoun, by the Earl of Leven; but was never infest, nor had done any diligence upon the comprising.

It was ALLEGED for Craighall, That he ought to be preferred; because his arrestment was prior, and he was *in cursu* to make forthcoming against the Earl of Leven, before he died; and, upon a bill, was reponed against the Justice-Clerk's decret to make forthcoming: And for his comprising, albeit he was neither infest, nor had done diligence, yet, as to all subsequent years' duties, he ought to be preferred, because a naked comprising is a sufficient title to pursue for maills and duties.

The Lords did prefer Craighall, not only upon his arrestment, but upon his comprising, as to all subsequent years; and found, that a compriser was not obliged in law to do diligence, but that a comprising is a sufficient title against all others who have not a better right.

Thereafter the Justice-Clerk did ALLEGE, That he was donatar to the single and liferent escheat of the Laird of Lamertoun, and had thereupon obtained a general declarator, and intented a special action, against the Countess. But this right was reserved to be debated thereafter.

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1670. February 14. GEORGE BANES *against* The BAILIES of CULROSS.

IN a subsidiary action pursued against the Bailies, for suffering one Henry