

No 25.  
not obliged  
to comprise  
the lands, but  
may next in-  
sist against  
the executors  
or heir of  
tailzie or pro-  
vision.

defunct to certain annualrents, reversions, and tacks. It was *replied*, That the pursuer had charged and denounced the said heirs. The defenders *duplied*, that they should comprise their lands and tacks. Notwithstanding whereof, the LORDS repelled the allegiance, and found the denouncing of the heir as sufficient discussing of him. It was *alleged*, That the like was found in a pursuit against the Earl of Angus, and the daughter and heir female of umquhile Archibald Earl of Angus.

*Fol. Dic. v. I. p. 247. Haddington, MS. No 1492.*

No 26.

1627. *March 22.* EDGAR *against* CRAIGMILLAR'S HEIRS.

THOMAS EDGAR having obtained a decret against the umquhile Laird of Craigmillar's Heirs, superseding always the execution against the Heir male, till the Heir of line were first discussed, it was found that it was not a sufficient discussing of the Heir of line to have put her to the horn, and raised caption thereupon, seeing she had land and heritage, which behoved to be comprised likewise.

*Fol. Dic. v. I. p. 247. Spottiswood, (HORNING.) p. 148.*

\* \* \* Durie reports the same case:

A BOND being registrate at the instance of Thomas Edgar against the heir of line, and also against the heir male and provision of umquhile the Laird of Craigmillar, maker of the bond; and the heir of line being in the decret of registration ordained to be first discust, before the heir of tailzie should be charged, the party having charged the person who was in blood to the heir of line, against whom the bond was registrate, as lawfully charged to enter heir, and having denounced him rebel, thereafter he charges the heir of tailzie; who suspends upon this reason, that the heir of line was not sufficiently discust by horning, seeing there was right competent to her as heir of line, which might be comprised from her, as charged to enter heir, or adjudged to the creditors, if she should renounce to be heir: This reason was found relevant, for the LORDS found, that the putting of the person, who should be heir of line, to the horn, was not a sufficient discussing of her, whereupon the party might come against the heir of provision; but found, that her right ought to be discust by comprising, or adjudication, or her person by caption, seeing she renounced not to be heir.

Act. \_\_\_\_\_.

Alt. *Lawtie.*

Clerk, *Gibson.*

*Durie, p. 293.*