

the compriser to the superior, the Lords found, in the like cases in all time coming, should be repaid again to the payer, if his right shall be rejected, and another preferred to him, he who shall be preferred, and by whom he shall be excluded, shall reimburse him. No. 35.

Act. Hay.

Clerk, Gibson.

Fol. Dic. v. 2. p. 409. Durie, p. 392.

1629. *March 12.* COLMSLIE *against* EARL ROXBURGH.

No. 36.

A superior was found obliged to receive a compriser's assignee as well as himself.

Fol. Dic. v. 2. p. 408. Durie.

* * * This case is No. 18. p. 200. *voce* ADJUDICATION.

1634. *July 22.* HAY *against* BAILIES of ABERDEEN.

Hay of Crimonmogat having charged the Bailies of Aberdeen, upon a procuratory of resignation made of some tenements of land in Aberdeen, holding burgage in his favours, to infeft him therein; and they suspending, that they were not holden to receive the resignation, being done in favours of one who is not burges of their burgh; and if, in law, they could be obliged to infeft him, as they alleged they were not, (any more than other superiors can be compelled to receive and change their vassals, upon a prior vassal's resignation, or disposition, which no superior is bound, in law, to acknowledge), yet, if they might be compelled in law, they ought to have a year's duty, as the land paid, and be otherwise satisfied in a composition, for receiving and infefting him; the Lords found not this reason relevant; but found, that the Magistrates ought to receive and infeft this person, albeit he was not a burges, upon the foresaid procuratory of resignation made in his favours, and that without payment of a year's rent of the land, or any other composition therefore, albeit other superiors of other lands, not burgage, are not compelled to receive such resignations, and to change their vassals, against their will; for they ought to claim no satisfaction therefore, seeing the land is not holden of them as superiors, but in burgage of the King; and the Magistrates are but the King's Bailies, and so should have nothing done therefore, but the services of the burgh; yet the scruple abides, viz. That lands of burghs, granted in burgage holding, ought not to be transmitted to any other, not being burgeses; for it appears to change the tenor of the concession given to the incorporation of the burgh by the Prince, which none can bruik, not being burgeses, and of that Corporation; and which the Magistrate, although he be not superior,

No. 37.

The Magistrates of a Burgh Royal were found obliged to give infeftment to a singular successor upon the prior vassal's resignation.