

ed, to be null, albeit it was clad with present possession, and divers other years preceding the year controverted, because the same was granted to be holden of the superior, and not confirmed; which nullity was admitted in that same judgement summarily, without necessity of reduction; and albeit the charter and sasine proceeded upon a contract, wherein the disponent was obliged to give the buyer infestment, either to be holden of himself, or of the superior, in respect the charter and sasine used in process were given to be holden of the superior.

No. 47.
by the superior to the holder of a charter, is equivalent to a confirmation of his right?

December 5.—In the action mentioned in the aforesaid page, Paton *contra* Stuart, the party producer of the charter, and sasine being given to be holden of the superior, being secluded by the Lords' interlocutor, from his right, as being null, for want of confirmation; he replied, that the same was confirmed by the superior, likeas the superior had allowed of his right, by making payment to him of that annual-rent, whereof he had acquired the charter and sasine, which was also sufficient as a confirmation: This was also repelled, because the other party in that cause had comprised for a lawful cause, from the giver of this charter, and disponent of the annual-rent, the giver's right, which being comprised, albeit after the charter and sasine, yet being before the confirmation, was a just impediment, which made the confirmation unprofitable, and was a mid intervening deed, which stayed the same, to be drawn back to the time of the charter; likeas any possession acquired from the superior, before the comprising, would never be of the force of a confirmation, to make the deed, which was null, to become valid against a third party, who had comprised; which the Lords found relevant.

Act. Foulis.

Clerk, Scott.

Durie, p. 85, 86.

1628. *July 22.*

BORTHWICK *against* HILSTON.

All the superior can claim for comprisings, be they ever so many, is but one year's rent.

No. 48.

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

* * This case is No. 35. p. 15030.

A similar decision is reported by Stair, Seton *against* Rosswell, No. 7. p. 297. *voce* APPRISING; and by Gilmour, No. 5. p. 3473. *voce* DILIGENCE.

1634. *July 22.*

HAY *against* BAILLIES OF ABERDEEN.

Magistrates of a royal burgh are not entitled to any composition for entering singular successors.

No. 49.

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

* * This case is No. 37. p. 15031.