

her neighbour by word, it was without his tolerance done. THE LORDS suspended the letters for the money, but found them orderly proceeded for her personal satisfaction. No 282.

*Auchinleck, MS. p. 268.*

1635. January 30. MITCHELSON against MOUBRAY.

GEORGE MITCHELSON having comprised certain tenements of land in Edinburgh from Gavin Mitchelson, pursued a removing against Bessie Moubray relict of the said Gavin. *Alleged*, absolvitor, because she was infest in liferent in the said tenements by her umquhile husband long before the pursuer's comprising, or yet the debt whereupon it proceeded. *Replied*, She ought to remove notwithstanding of her infestment, because offered to be proved that she compeared judicially before the Bailies of Edinburgh, without her husband's presence, and ratified the said comprising; which must be equivalent, as if she had renounced her liferent infestment, especially seeing she is as well bound as her husband in payment of the debts whereupon the comprising is led. *Duplied*, Not relevant, except she had expressly renounced her liferent infestment; for as to the judicial ratification of the comprising, it can work no more than the comprising itself, which albeit led upon a bond wherein the defender was conjunctly bound with her husband, yet could have no execution against her in prejudice of her liferent, the bond being made *stante matrimonio*, and so null in law; so the bond being null in so far as concerned her, the comprising could not be effectual against her, and consequently her ratification of a null right can work nothing to her prejudice. *2do*, Albeit the right were not null, yet the ratification is absolutely null, being done only before an inferior judge, and not subscribed by the party; otherwise the assertion of an inferior clerk should take away any body's right, whereas by the LORDS statute no act of an inferior court extending above L. 40 is sustained. THE LORDS found the exception and duply relevant.

No 283.  
A relict could not be removed, from lands in which she had been infest in liferent, altho' she had renounced.

*Spottiswood, (HUSBAND AND WIFE.) p. 160.*

\* \* See Durie's report of this case, No 164. p. 5960.

1668. January 22. DOUGLAS against LADY WAMPHRAY.

THE Lady Wamphray being provided in an annualrent out of lands, without respect to a *sors* or stock, and being infest, it was found, that she ought to be liable to taxations and public burdens, being *oner a patrimonialia*, though the said annualrent was payable to her as well infest as not infest. No 284.

*Dirleton, No 143. p. 58.*