

gard Walter was satisfied. It was alleged, That they should be assoiyled, in respect, by the comprising, Walter was only liferenter with his wife, and could do no deed in prejudice of his wife and daughter. It was answered, That, by the bond, he had power to dispose upon the money, notwithstanding of the joint liferent of his wife and the fee in favours of his daughter; and that clause anent the power of disposal, in favour of Walter, ought to be holden as repeated in the comprising as in the bond,—the bond being the ground thereof, though, by negligence, the clerk has omitted the same; and parties not being obliged to look after such formalities, the clerk's negligence should not prejudice them, the matter itself being so clear. The Lords repelled the allegiance, in respect of the answer.

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1663. *June.* THOMAS WILKIESON *against* THOMAS CRANSTOUN.

THOMAS Wilkieson obtains a decret of removing against Barbara Sanderson, for removing from a burgess acre in Lawder; which was suspended by her and by Thomas Cranstoun in Lawder, (who was called to the giving of the said decret,) upon this reason, That Barbara is tenant to the said Thomas, who has disposition of the said burgess acre from his father, who had right thereto from his mother, and, by virtue of the said rights, [has been] above seven years in possession. Answered, Not relevant, unless the said Thomas or his father were infeft; whereas the charger is infeft. Replied, That any infeftment the charger has, is only upon an apprising, whereupon he obtained letters of horning and compelled the bailies of Lawder to infeft him: which being done *superabundanter*, cannot prejudice the defender's right, which is sufficient without a seasine; because he offers himself to prove, that the constant custom of the town of Lawder, among the burgesses, is, to transmit their rights to burgesses acres by naked dispositions and acts of the Town-Court; concerning which acres there are divers other privileges singular, and not elsewhere in any other burgh; for there being of old disposed, by the king, 150 acres to 150 burgesses of Lawder, they were disposed with this quality, that there can be no more or fewer burgesses than there are burgess acres; and no burgess can possess more than one; and they are not transmittable to any but to a burgess, who is never infeft, but bruiks, by an Act of Court, with a naked disposition. The Lords, before answer, ordained the charger to condescend whether the person from whom he comprised was infeft or not.

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1665. *January.* WILLIAM GRAHAM of BLUETWOOD *against* JOHN and WILLIAM BROWN.

JOHN and William Brown having comprised the lands of Overharcleugh from Robert Johnstoun *in anno* 1655, and William Graham of Bluetwood having comprised the said lands within year and day; he pursues the first comprisers for