

1623. July 25.

E. ERROL *against* L. BUCKIE.

No 2.

IN an action, betwixt the E. Errol and Buckie, the LORDS found, That nothing could be comprised, except heritable rights, and writs containing heritable securities; or writs which were real rights, as tacks; or writs concerning real securities, as bonds to set tacks; and that no bond of moveable fums, or other moveables, might be comprised.

A. &amp; Nicolson.

Alt. Hope.

Clerk, Gibson.

*Fol. Dic. v. 1. p. 9. Durie, p. 77.*

1624. November 18.

KINCAID *against* HALIBURTON.

No 3.

An apprising carries the reversion of a preferable apprising.

IN an action, betwixt Doctor Kincaid and James Haliburton, for redemption of some lands comprised from Mr Robert Monro, by the said James Haliburton, Dr Kincaid desired the lands to be redeemed at his instance from the said James, as having right to the legal reversion, by reason of a comprising deduced at his instance. In this action, one Monro appeared, who had also comprised the same lands, but posterior to James Haliburton and Dr Kincaid. Monro alleged, that Dr Kincaid's comprising was null, and so could not support this action of redemption at his instance; as thereby he could not be found to have right to James Haliburton's legal reversion of his comprising, in respect that the said pursuer had denounced the land to be comprised *before* James Haliburton; so that, at the time of his denunciation, there was not a legal reversion, nor any right thereof then extant; there being then no other denunciation, nor comprising, used before the pursuer's denunciation, which might occasion any legal to have been extant. This allegiance was repelled; for the LORDS found, albeit the pursuer was the first denouncer of the lands to be appraised, and that James Haliburton denounced after him, which James Haliburton had comprised before the pursuer; yet, under the first comprising, albeit second in denunciation, the property of the land was comprehended; and so thereby James Haliburton ought to be preferred to Dr Kincaid, who had comprised after him, albeit he had denounced before him; and that the right of the legal reversion, which was, or might have been competent to Monro, the common debtor, against whom all the comprisings were deduced, fell under Dr Kincaid's comprising. It was *alleged*, That it could not fall under the same; and that nothing could fall under the comprising, but that which could be comprehended under his denunciation; and, at the denunciation, there was no legal extant; but the LORDS found, That the second comprising, albeit proceeding upon the first denunciation, ought to extend to all right, which, at the time of the said second comprising, was inherent in the person of him, from whom the comprising was deduced, and, consequently, to the said legal reversion; therefore,