

Without it, persons so situated would be apt, while the marriage subsisted, to exercise their powers in a manner very prejudicial to the estate. And, with regard to that part of the woods which has been planted by the liferenter himself, it would be manifestly unjust, if he were not thus allowed, without any injury to the lands themselves, to avail himself of the fruits of his own industry. So far from being conducive to the advantage of the proprietor, this would, in general, prove a real loss to him, while the improvement of the country at large would be greatly hindered by it; Bankton, b. 2. tit. 6. § 6.

After advising the petition for Gideon Gray, with answers for Mr Seton, which were followed with replies, the Court were of opinion, that a liferenter had no right to sell any part of the woods growing on the liferented lands, unless in the particular case of a coppice, which had been in use to be cut in a certain yearly progression, so as to yield a constant annual income to the possessors; and that the warrant of sale, so far as it allowed this, ought to be recalled. Mr Gray therefore having agreed to pass from any objection in point of form, the following interlocutor was pronounced:—

‘THE LORDS find, That none of the woods or plantations condescended on, fall under the liferent of Mr Hugh Seton; and therefore appoint such of the said woods or plantations as are contained in the act of roup, to be struck out of the sale; and refuse the desire of the petition.’

Act. Abercromby.

Alt. Dean of Faculty.

Clerk, Home.

G.

Fol. Dic. v. 3. p. 386. Fac. Col. No 64. p. 116.

## SECT. II.

### Liferent by Reservation.

1596. December 13. CLARK against WEMYSS.

IN an action betwixt one Clark in Dysart and Wemyss, anent the entry of a tenant, infest as heir to his father in certain acres of Dysart, by the Master of Sinclair, as fiar of the barony of Dysart, the LORDS found, That the saine given by the Master of Sinclair was null, because my Lord his father's liferent was reserved of the said barony, whereby the entry of the tenants pertained to him; and albeit oft times the resigners used to resign expressly the entry of free tenants, yet the general reservation of the liferent, *cum tenentibus, tenendriis*, &c. is sufficient to make right to the liferenter to enter tenants.

Fol. Dic. v. 1. p. 548. Haddington, MS. No 605.