

charge the annualrents of the said 10,000 merks due before the Bishop's decease, as in *bonis ejus*.

Alleged for the defender, The Lady Prestonhall his mother, who was *nominatim* substituted in the bond *quoad* the annualrents, had as good right to those resting before the Archbishop's death unuplifted by him, as to what fell due thereafter; the former being transmitted to her without necessity of a service, 4th Feb. 1680, Robertson *contra* Preston, *voce* SERVICE AND CONFIRMATION, 13th July 1681, (*See* Christie against Christie, *voce* LEGITIM).

Answered for the pursuer, Though persons *nominatim* substituted in bonds need no service or confirmation to transmit the bonds to them; yet all substitutions take place only from the institute's decease, and carry the stock and profits thereof; for the precedent profits being in *bonis defuncti*, who was sole proprietor thereof, go by succession to him.

THE LORDS found, That the annualrents which did precede the Bishop's decease, were in *bonis ejus*.

Fol. Dic. v. I. p. 367. Forbes, p. 491.

No 31.
death, found to be in *bonis defuncti*, and not to be carried by the substitution.

S E C T. VI.

Bonds with Clauses for Annualrent, before the act 1661.

1610. December 8. LAWSON against PATERSON.

No 32.

A bond ordaining ten merks of annualrent to be yearly paid for ilk hundred of a sum, so long as the principal is not paid, will not make the bond heritable and the sum immoveable, unless the bond contain provision of infeftment, or to pay as well not infeft as infeft.

Fol. Dic. v. I. p. 367. Haddington, MS. No 2048.

1627. December 7. PORTEOUS against VEITCH and HAY.

IN a suspension betwixt Porteous and Veitch and Hay anent the employment of a sum to the use of the relict, who was appointed by her umquhile husband, to be provided to her liferent thereof, the LORDS found, That the heir, who was only charged in this process, would get his relief against the executors, upon the moveable gear of the defunct, who was obliged, and that the executor would be obliged to give monies to be employed; and that facts of that

No 33.
A bond bearing a sum to be paid at a term, and a certain sum of annualrent from the time of borrowing to the time of pay-