

No. 45. and it gives him the same privilege with his author, which was to enter as an heir. Now, while his author was not bound to take infeftment in her own name, as her right expressly contained assignees, she was at liberty to assign it as it stood; and the superior cannot refuse to give infeftment upon it, to any assignee in whose person it may now stand, upon payment of the same casualty which she was bound to pay.

Observed on the Bench: The heir of a vassal is entitled to be entered as such, on payment of the *duplicando* or other composition exigible from an heir, but he cannot demand such an entry as will enable him to introduce a singular successor in his place, without payment of a year's rent. If, therefore, instead of a precept of *clare constat*, he demands a *charter*, which may be assigned, the superior is not obliged to comply with this, unless satisfaction is given as to the year's rent.

The Lords "alter the interlocutor reclaimed against, and find, that the respondent Alexander Brown, upon receiving the charter before mentioned, must pay to the pursuers the usual composition as a singular successor; also find him liable in expenses."

To which they adhered, (February 21,) by refusing a petition, without answers.

Lord Ordinary, *Bannatyne*.

Act. *Rae*.

Agent, *T. G. Wright, W.S.*

Alt. *Corbet, Morison*.

Agent, *Ja. Skinner*.

Clerk, *Walker*.

F.

Fac. Coll. No. 147. p. 329.

SECT. XI.

Composition due by Singular Successors.

No. 46.

A superior is not obliged to infeft a compriser until he is paid a year's duty of the lands.

1614. February 3. DALMAHOY against BOTHWELL.

In an action of suspension pursued by Dalmahoy against Adam Bothwell, who had comprised some lands holden of Dalmahoy, the Lords found, that Dalmahoy was not obliged to give him infeftment, except he were paid the hail year's duty of the lands the year of the comprising, conform to the act of Parliament made by King James III. *anno* 1469. Cap. 36.

The contrary before, betwixt the Lord Dundas and Ninian Macmorren.

Fel. Dic. v. 2. p. 409. Kerse MS. p. 79.

1623. December 5.

PATON against STUART.

No. 47.

Whether the payment of annual-rent

In an action of double-poinding betwixt Paton and Stuart, the Lords found a charter produced for the one party, whereby he desired to be answered and obey-