

unquhile George Bruce contractor, but by his son as heir to him, and the time of the registration thereof at his instance, this charger then not having desired (as the Lords found he might have done) that execution might also be used at his instance against the heir of the said other party, who sought the said registration; which being omitted, and so not having warrant for his charges, the Lords found the same could not be sustained.

Alt. *Herriot.*

Alt. *Bruce.*

Clerk, *Gibson*

Durie, p. 291.

No. 5.

1628. *January 29.* LORD WHITTINGHAME *against* SPENCE.

In a suspension at the instance of the Lord Whittinghame against Spence, the Lords found, That a party in whose favours some clause of a contract is conceived, albeit he be not contractor in that contract, may raise summary charges upon that clause, against the party obliged to fulfil the same to him, and that he needs not seek implement thereof by an action, or by seeking registration of the contract at his instance, but that charges may be raised thereupon summarily; which the Lords sustained, the contract being registered before, betwixt the principal parties contractors.

Act. *Douglas.*

Alt. *Belshes.*

Fol. Dic. v. 2. p. 403. Durie.

No. 6.
A party in whose favour a clause in a contract is conceived tho' he be not a contractor, may use summary diligence against the obligant.

1628. *February 6.* MR. JAMES HANNAY *against* RUTHERFORD.

A Minister having a glebe designed to him, may charge summarily the possessors to remove, which is a favour granted to them for their greater expedition; but yet if the possessors suspend, they will not be obliged to verify all *instanter*, as in ordinary suspensions, but they will get a term assigned them for that effect, as if they were pursued by way of action.

Fol Dic. v. 2. p. 403. Spottiswood, p. 324.

No. 7.

1628. *March 15.* LAIRD HALTOUN, Supplicant.

A bill was given in by the Laird of Haltoun, craving letters and charges of horning against the possessors of his house of Haltoun, for delivery of the same to him, seeing the Lady, liferentrix thereof, was deceased. These charges desired by the bill were granted summarily by charges of six days, and in case of failzie to denounce, without citation or cognation of the party's rights. See No. 1. & 2.

Fol. Dic. v. 2. p. 403. Durie, p. 363.

No. 8.