

No 121.

writs of the lands comprised, nor them to be copied to him, without calling the debtor to the pursuit.

lands, nor such real rights, himself not being really infeft; but that he might call for production of contracts and bonds, the same being comprised: And also found, that a compriser could not seek production of any writs of lands comprised, nor the same to be copied to him, except the party from whom he comprised had been called to that pursuit. See TITLE TO PURSUE.

Act. *Stuart.*Alt. *Nicolson.*Clerk, *Scot.*

Fol. Dic. v. 1. p. 142. Durie, p. 289.

1636. *March 17.* REID *against* MR HARY GIBSON.

No 122.

A relict of a debtor was pursued to exhibit and deliver a bond. She voluntarily exhibited it; but the Lords found no process, till the defunct's representatives should be cited.

UMQUHILE John Reid, by bond being obliged to Hugh Reid minor, son to George Reid of Daldilling, in 3000 merks, the said Hugh, and his father as administrator, pursue the relict of the said umquhile John Reid, maker of the bond, and her second husband, for exhibition and delivery thereof to him; wherein the Lords found no process ought to be granted (albeit the said relict and her spouse exhibited voluntarily the bond, being in her hands ever since the death of her husband, maker thereof) while some person were summoned to represent the defunct debtor, alleged maker of the same; seeing it was never libelled in the summons, that ever the bond was the pursuer's evident, or ever was delivered to him, but produced now after his decease by his relict, it being amongst her husband's writs the time of his decease; and this was so found, being proponed by Mr Hary Gibson, who was creditor to umquhile — the debtor, and his brother, and the daughter, only bairn of the debtor's brother, and so who is that only person, who was apparent heir to the debtor, and who thereby was found to have interest to propone the same.

Act. —

Alt. *Nicolson at Stuart.*Clerk, *Hay.*

Fol. Dic. v. 1. p. 142. Durie, p. 805.

S E C T. XXVII.

Citation in Incident Diligences.

1624. *February 10.*

KING'S ADVOCATE and LO. YESTER *against* LO. BUCCLEUGH.

No 123.

In the case of a party's craving an incident

In an action of improbation pursued at the King's Advocate's instance, and the Lo. Yester, against the Lo. Buccleugh, an incident being used at the Lo.