

Their preferance. Again, the privilege in the back bene being personally conceived in favour of the cautioner, it could not be extended to other persons ^{not} there in mention. And tho' their cautioner by his paying the debt became creditor to them, he had no privilege; but must come in among the other creditors conform to his diligence because personal privileges qui non excedunt in personam, are not extended to cautioners. And it was found in a competition of the creditor Langtown that even a publick Insuffment of heliety to a cautioner, did not accrue to the creditor for whose debt it was granted, but was so personal to the creditor, that he could renounce it at pleasure, Stair lib. 2. tit. 2. § 27.

In both Dispositions and assignations there is ordinarily a Clause of Warrantie. See Supers part 2 Book 3 Chap. 2. tit. 4.

What ever right concerning a thing conveyed, saith of the way to the author, it accrues to his singular successor, as if it had been expressly conveyed to him, according to the rule, Jus super-veniens Authori, Accrescit Successori. Craig contra Frowd lib. 1. tit. 15. § 20. Stair lib. 3. tit. 2. § 1. If the Author convey it right hath, has, or shall acquire, or the conveyance be with absolute warrantie, or expressed, or implied as when the right is granted for an equivalent Onerous Cause; In either of these Cases, the Author will be hindered personally or objections to make use of any right afterwards to exclude his own deed; even tho' the former right were reduced before the other came in his person. For the former right doth not accrue to his Successors to the old Extinct right, but it accrues to his Successors, and becomes his momentane that it is acquired by the Author. Thus a superior having acquired the forfeiture of his Superior, whereby both the names of the acquirer and his Vassal had fallen to the Crown: It was found, that he the acquirer could not make use of that right to overturn the sub vassal's right which he was bound to warrant, Spots wood v. Ball. tit. Conjunct fee and liferent 10 March 1636 Crawford contra L. Murdewtown. The Vassal paying a proportionable part of the Expence of the right, 15 Feb. 1665 Boyd of Pinkell contra Tenants of Barslith. Again, one who had right to the Gilties of some lands by a Gift of the Titulars forfeiture, having got a decretal of Val

Valuation of these Gilties reduced and Improved, the benefit of that Improbation accrued to the forfeited person when restored, as a consequence of his real right; albeit nothing done by the Donator would have been prejudicial to him 13 July 1667 E. Laidrick contra Laird Wolmet. If a person not Insufft do Insufft another, and there after Insufft himself, the Author Insufftment accrues to that other, Stair lib. 3. tit. 2. § 2. Insufft. But where a person not Insufft grants Insufftment to other two, the Lord Stair (ibid.) is not clear, which of the two the Author Insufftment will accrue and is doubtful.

If the Common Author Insufftment proceed upon diligence, being a singular Successor for that Effect, it will accrue Alternately to the Effect of the Diligence Stair ibid. But if the Common Author Insufftment was taken voluntarily, it will accrue to the first right. Thus an heir not Insufft having taken a tack of his lands with a Warrantie, the tacksmen was not excluded by a posterior disposition of the lands to one who married his daughter and himself to be Insufft at the same time 22 June 1671. Pevion contra Medicus. In a competition upon two Dispositions granted by an apparent heir after heritable land granted to his predecessor, the Lord preferred the first Disposition Intimated to the Deutor in the Bond, before granting of the other; Albeit the Common Author was served upon the procuratory for tacked in the second, in order to compel that right. For the service was bound to accrue to the first right, which contained both a procuratory and warrantie from fact and deed 28 Feb. 1708. Alison contra Chalmer. Jus superveniens Authori Accrescit Successori ipso facto, without any new solemnities of Relinquation, Confirmation, Cession, or the like that are necessary in a Common Transmission of such a right; If the ordinary solemnities were used in the first right to which the Superior's bene-ficence Juris is drawn back Stair lib. 3. tit. 2. § 2.

If a conveyance be limited to a particular title, or to the General of any right the Author hath, or bears warrantie only from his own fact and deed, he may exclude it by a future acquisition Stair ibid. Thus one having let a tack of some Gilties for an undervalued duty with personal warrantie from fact and deed, and having after his right was reduced in Parliamen