

1765. December 5.

HENDERSON *against* MURRAY.

## No. 236.

Missive letters not holograph, and wanting witnesses, sustained.

John Henderson and Robert Cowan interposed their credit for Samuel Cowan by accepting bills, for an arrear of rent which he owed, in consequence of a missive letter from Adam Murray, whereby he became bound to join with them conjunctly in granting bills, or paying the money.

Murray acknowledged his subscription; but pleaded that the missive was not obligatory, as not *in re mercatoria*; and neither holograph, nor signed before witnesses.

“ The Lords repelled the defence.”

Act. Armstrong.

Alt. Crosbie.

G. F.

Fac. Coll. No. 21. p. 237.

## S E C T. IX.

Peculiarities in the Execution of Mutual Contracts and Decrees  
Arbitral.

1625. January 26.

FAIRIES *against* JOHNSTON.

## No. 237.

In an action betwixt Fairies and Johnston, a decret arbitral being quarrelled by the party, who was charged for obtempering of the same, upon this reason, because the submission, which was the warrant of the decret, was subscribed by two notaries for the parties, and there were only three witnesses inserted therein, whereas the act of Parliament requires four, and so the same was null, and consequently the decret; which reason was not respected, but the decret, and submission, notwithstanding thereof, was found sufficient, and sustained, because the decret was filled in upon the blank, upon the back of the submission, which blank was subscribed by the same two notaries, for the same parties, before five witnesses, and which blank was subscribed, at the same time, when the submission was subscribed, and so was reputed as *unicus actus*, and consequently not to come under the act of Parliament, for want of that perfection requisite, of four witnesses.

Act. Belshes.

Alt. Burnet, junior.

Clerk, Gibson.

Durie, p. 159.