

1629— February 11.

FRASER of Techmuiry, Supplicant.

No 28.

A SUPPLICATION was given in by one Fraser of Techmuiry, as heir retoured, by general service, which was produced, to his good-dame called Hay, who had comprised for a debt certain lands pertaining to the L. Philorth; making mention in his bill, that his good-dame the compriser deceased before the said comprising was allowed by the LORDS; therefore he being general heir to her, craved the said comprising, which he produced with his bill, to be allowed by the LORDS, and a command to the superior, to receive him as heir to the compriser, in the comprised lands. The desire of this supplication was granted, and no necessity was found, that the heir should be put to any new process for the effect desired, or that the apprising should be transferred in him, or the party either superior or debtor warned to hear the desire thereof granted, but the same was summarily granted, conform to the desire of the said bill.

*Fol. Dic. v. 1. p. 471. Durie, p. 424.*

1630. February 27.

L. LOCHTOWER, Supplicant.

No 29.

THE Laird of Lochtower gave in a supplication, making mention that he had comprised his debtor's lands, to be holden of a particular person, who was not superior; which comprising was allowed by the LORDS, and charges were ordained to pass, to charge the superior to enter him, albeit he was not superior of these lands, and therefore he craved new charges against another, viz. the Lord Yester, who was the right superior, to receive him thereupon; the desire of this supplicant was granted, and summary charges ordained to be given against him at the compriser's instance, without any further trial, albeit the comprising and prior charges made mention of another superior.

*Fol. Dic. v. 1. p. 471. Durie, p. 496.*

1669. February 9.

BLACK against DAVID FRENCH.

No 30.

THE lands of Milburn being holden ward of the Dutchess of Hamilton, after Milburn's death the Duke and Dutchess grant a gift of the ward to Mr Robert Black, who pursued for mails and duties; and likewise David French having appraised from Millburn, and having charged the Dutchess before Milburn's death to receive him, he pursues the tenants for mails and duties, who suspend upon double poinding. In the competition it was *alleged* for the appriser, *imo*, That his apprising being a judicial sentence, did denude Milburn the vassal, in the same way as if Milburn had resigned in the Duke's hands,

A superior is not *in culpa* or *in mora* by a charge, until the appriser present to him a charter upon obedience, and offer him some money for his entry, and caution for