

1637. *January 20.* ROBERT GREIR of BARJARG *against* The LAIRD of CLOSEBURN.

ROBERT Greir of Barjarg charges the Laird of Closeburn to enter and receive him vassal to the twenty-shilling land of Rackhill, whereof the Laird of Closeburn was superior, whereupon he had obtained adjudication against the heirs of the deceased Thomas Greir, his brother. Closeburn suspends, alleging, That he ought to have a year's duty, seeing the land is transmitted to a stranger by adjudication as by comprising, and *par est ratio* in the one as in the other. To the which it was answered, That, by Act of Parliament, comprisingers are ordained to pay a year's duty, which is not ordained in the Act anent adjudications. The Lords found the letters orderly proceeded; and declared that they could not exceed the Act of Parliament.

*2d MS. Page 9.*

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1637. *January 31.* MACKDOUGALL *against* KATHERINE VEATCH.

MACKDOUGALL pursues Katherine Veatch for a tack-duty contained in a contract passed betwixt them. It was alleged by the defender, That the contract is null, being subscribed by two notaries for her, seeing she could write herself. It was replied, Ought to be repelled, in respect of the contract subscribed by two notaries at her command, alleging to them that she could not write; seeing, by virtue of the said contract, she had bruiked the lands sinsyne, and by no other valid title, and there might have been sundry impediments at that time why she could not write herself. The Lords repelled the exception, in respect of the reply.

*2d MS. Page 225.*

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1637. *February 8.* THOMAS MUREHEAD *against* WILLIAM LAWSON.

THOMAS Murehead, factor for a merchant in Midleburgh, pursues William Lawson, merchant in Glasgow, for payment of a certain sum addebted by the said William to one Abraham Sawyer, whereunto the merchant in Midleburgh is made assignee. It was alleged, No process could pass at the father's instance; because, albeit he be factor to the merchant in Midleburgh to pursue other creditors, yet he produces no power from the said merchant to pursue this debt. To the which it is answered, Ought to be repelled in respect of the summons, which is pursued not only by the factor, but at the instance of the party himself constituent; and the factor offered caution to warrant the defender at all hands. Whereunto it was answered, That the factor could not pursue for a stranger without a power, neither could the factor compear for a stranger without a mandate. The Lords sustained the pursuit at the factor's instance: he finding caution; before sentence, to report a sufficient procuratory from the party.

*2d MS. Page 83.*