1664. *December 22.* PATRICK NICOLL *against* GEORGE SEATTOUN.

IN a pursuit raised by Patrick Nicoll against George Seattoun of Minnes for payment of a debt, as representing his father, on one or other of the passive titles; and being insisted against, upon that title of behaviour as heir, by intromitting with the maills and duties of lands, whereof a condescendence was to be given in by the pursuer; the Act being extracted blank, and the condescendence not proven till after the second calling of the Act,—the Lords, in respect thereof, would not circumduce the term against the defender; but gave him a long term, *viz.* to the 1st of July thereafter, to complete his diligence for proving that his father was denuded of the lands, with the maills and duties thereof, [with which] it was alleged the defender had intromitted.

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1664. *December 23.* SIR ARCHIBALD STEWART of BLACKHALL *against* The LAIRD of ROTHEMAY.

SIR Archibald Stewart of Blackhall,—having apprised the lands of Rothemay, and others, from Alexander, Lord Saltoun, as lawfully charged to enter heir to umquhile John, Lord Saltoun, his father; upon that ground, as having right to the gift of ward and non-entry of the said Alexander, Lord Saltoun, of the said lands, by apprising, and as having right to the decreet of general declarator of the said Alexander Lord Saltoun his escheat and liferent;—intents reduction against the Laird of Rothemay, Park, and others, for reducing a disposition granted by umquhile John, Lord Saltoun, to the late Lord Uchiltrie, of the said lands; upon that reason, that umquhile John Saltoun was interdicted, and the interdiction duly published, before granting of the said disposition; and for reducing the rights granted to the said Lord Uchiltrie to Rothemay and Park; which behoved to fall in consequence.

Whereunto it was ANSWERED, That there could be no process, because no infeftment had followed upon the comprising.

The Lords repelled the allegeance, and sustained the pursuer's interest upon the comprising, which they found to be equivalent to an assignation, and the *interdictum* to an inhibition; so that, for reducing of thir pursuers and their authors their rights, there needed no infeftment to pass upon the apprising.

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1664. *December 22.* CORNELIUS INGLIS *against* His TENANTS.

MR Cornelius Inglis, being infeft in several lands and tenements about Kingsbarns, upon a comprising, pursues removing.

It was ALLEGED by Mr Roger Hoge, who compeared for his interest, No removing; because they were his tenants, by payment of maill and duty, several years before the warnings; who have right to the said lands by apprising, and had charged the superior.