

their former probation. REPLIED,—Minority and lesion should repon against punctilios of form. *Vol. I. Page 248.*

1684. *February 23.*—The declarator of recognition, at the instance of Sir John Hay of Muiry against Poury, &c. mentioned 4th December 1683, was advised; and the Lords having considered the depositions of the witnesses adduced anent the rental, they find them unclear; and therefore grant commission to Forret, Drumcairn, Blair, and Carse, or any two of them, on the ground of the lands, to reëxamine not only these witnesses, but also gentlemen and others there, who know any thing of the true rent of the controverted lands, if more than the half be truly alienated, so as to make all recognosce; and grant diligence for citing witnesses.

This was a great favour to Poury, after probation led, to make a new Act. *Vide 14th August 1684. Vol. I. Page 274.*

1684. *August 14.*—The three Lords, *viz.* Pitmedden, Redford, and Edmonstone, commissioned to take the probation in the recognition, Sir John Hay of Muirie against Poury, &c., as mentioned 23d Feb. 1684, went to the ground of the lands; and whereas each party had above 50 witnesses to prove what was the true rental, the Lords restricted them to 20 the piece; and afterwards, on a communing, persuaded Sir John Hay to give Poury 13,000 merks, and him to accept it; and so they agreed this tedious and expensive plea.

*Vol. I. Page 301.*

See many other reports of this case in the Index to the Decisions under *Hay against Muirie's Creditors.*

1684. *November 4.* HUGH WALLACE and WILLIAM WALLACE *against* BIGGARS.

THE Lords having advised the probation led by Hugh Wallace and William Wallace, *alias* Biggar, his son, upon the declarator raised by them against Biggars in Ireland, as nearest of kin to the deceased Major John Biggar, to hear it found that the disposition given by the said Major to the pursuer was not *in lecto*, but that he was then *in liege poustie*, and came to kirk and market:

The Lords found it proven that he was then *in legitima potestate*, and therefore declared. *Vol. I. Page 306.*

1684. ABERCROMBIE of Fetternier's Lady and ROBERT SEMPLE *against* SEMPLE of CATHCART.

*November 4.*—ABERCROMBIE of Fetternier's Lady, as sister to the last Lord Semple, is served heir of line to him; as also Robert Semple, as heir-male, is, by their moyen, served heir-male by two services, one general, the other special; though Semple of Cathcart founded on a tailyie by the last Lord to him, failing heirs of his own body. *Vide 7th November current.*

*Vol. I. Page 306.*