

IDIOTRY AND FURIOSITY.

1738. *February 14.* GRAY *against* GRAY.

IN a service of idiotry, a conjunct proof allowed of the condition of the person, to reduce the service.

No. 1.

1749. *June 21.*

GEORGE MORISON, Lunatic, and WALTER BAIN, and PENELOPE his Wife, Committee of his Estate, and JOHN HAMILTON, their Factor, *against* The EARL of SUTHERLAND.

A MAN by inquisition being found in England a lunatic, whereupon a commission of lunacy was given by the Court of Chancery, and the Committee of his estate having sued for a debt owing the lunatic in Scotland; it was objected, that a commission by the Lord Chancellor of England out of the Court of Chancery could give no title to sue in Scotland; and the Committee, after advising with counsel in England, finding that an idiot's tutor appointed in Scotland could not on that title maintain an action in England; and being therefore doubtful that the law might be found the same in Scotland, applied to the Chancellor for leave to take a letter of attorney for the lunatic, which having got, he insisted upon both titles: But the Court found that neither of them was a sufficient title to carry on the suit.— Reversed by the House of Lords, 13th February 1750, and the title sustained to give action in the appellant Morison's name. The Chancellor thought the objections to the first suit well founded, and that a Committee in England could not sue in Scotland, but that yet the lunatic might sue in his own name, and that though the first suit was brought in name of his Committee as of a lunatic, which they could not do in Scotland; yet when the suit was afterwards brought in the lunatic's own, we could take no notice

No 2.

No. 2. of his lunacy unless a brieve of furiosity had issued, (and I supposed he added, that he had been found furious ;) or if we did take notice of it, it could only be as a lunatic at large, which could not bar a suit in his name ; and that the Union made no difference, for that the law would be the same in England. *Vide* in a paper sent me by Sir John Gordon of Inver-Gordon. (*Meipso*, Reporter.) (See DICT. No. 105. p. 4595.)

See Lieutenant Hope against Drummond, 28th February 1749, *voce* MESSENGER.

See Tutor of Law of Ederline, 27th February 1740, *voce* TUTOR.

See NOTES.