

where he lurked : It was long reasoned amongst the Lords, that, seeing he was neither at the horn, nor letters of caption against him, but the king's free liege ; there could no commission be granted to his creditors to take him. And this was the opinion of them who were of best judgment ; but the greater number yielded to give a commission, but sent a messenger with the party, who, finding Corwood outwith the town, brought him in to the session, and there, with his own consent, he was content to remain in a house in Edinburgh, and keepers with him, for certain days, that he might treat with his creditors to give them satisfaction.—11th November 1637.

*2d MS. Page 51.*

The like was granted to William Dick against Thomas Thomson, factor at Rowan, although no bankrupt.—5th July 1637.

*2d MS. Page 52.*

1637. November 15. RICHARD GUTHRIE against The EARL of GALLOWAY and his SONS.

RICHARD Guthrie, assignee to an annualrent disponded to Mr Archibald Lindsay, and Christian Heriot, his spouse, furth of the lands of Sourby, pursues the Earl of Galloway, and his sons, heritors of the lands out of the which the annualrent is payable ; as heritors, at the least, as they who uplifted from the tenants the maills and duties of the lands : to see and hear them decerned to make payment of the annualrent addebted of the years bygone, and yearly in time coming, during their occupation. It was alleged by the defenders, That they could not be convened *personali actione*, but they behoved to poind the ground for the said annualrent, and poind the tenants of the ground. The Lords sustained the summons against the heritors, being intromitters with the duties for so much as they have intromitted with for bygones, but not for time to come ; for which the pursuer must intent new action, in case the heritors intromitted with the duties from the tenants.

*2d MS. Page 171.*