

rents and duties of the lands within the years of the legal, as it is now prorogated. It was answered by Torsonce, That the libel is not relevant, unless the pursuer would allege that the comprising was satisfied within seven years after deduction thereof; for, by the law then standing, after the expiring of the seven years, the lands became his irredeemable property, and it was thereafter lawful to him to dispose thereupon at his pleasure: likeas, though he did dispone the lands of Wyllicleugh to the apparent heir for 11,000 merks, and did retain the lands of Kippilaw for making up what he wanted of the sums comprised for, yet the late Act of Parliament can only be extended against such first comprisers who have the right standing in their person for the time; and not against such who, after expiring of the seven years, had disposed the comprised lands before that Act. 2. Any intromission the compriser, or any others having right from him, had before the said late Act of Parliament, and after the said seven years, being of the rents *bona fide* uplifted and consumed as his own, by the law then in force,—he cannot be countable therefor. It was replied, That the prorogation granted, by the law, to Whitsunday 1664, is without any distinction of comprisings, and is to have all the effects as the comprisings and legal reversions would have had, if the legal had not expired before the same term to which they were prorogated, being dated seven years only before, according to the former law;—so that, whatever sums of money or rents the compriser, or any having right from him, has uplifted, and what lands have been disposed for the price, they are to be countable therefor, and the lands to be redeemable; and the price paid for the lands is to be counted also; and, if it be not satisfied by the defenders' intromission, the pursuer may be liable, *pro tanto*, in place of the sums comprised for in the first comprising. And, upon the same ground of the prorogation, the defenders ought to count for the rents as well after as before the expiring of the legal, by the former law. The Lords found the comprising redeemable, notwithstanding of the foresaid disposition; and the compriser is to be satisfied of 11,000 merks, to be allowed always in part of the sums comprised for; and the defenders to be countable for the whole bygone maills.

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1666. February. The TOWN of GLASGOW against The TOWN of DUMBARTOUN.

IN the mutual process betwixt the town of Glasgow and the town of Dumbartoun, wherein there had been a very long debate;—the Lords found, That the charter granted by King James VI. to the town of Dumbartoun, *anno* 1609, containing many particular customs, of all ships arriving on the water of Clyde, and, namely, within the stations of Portrige, Inchgreen, and New-work, could not prejudice the town nor burgesses of Glasgow, being a free burgh royal; and the river being *flumen publicum*, where, upon the naked account of passing up and down, anchoring, or transporting their goods out of their ships, by boats, to Glasgow, no such dues ought to be exacted to their prejudice, and are only to be exacted in harbours, *ad sustinenda onera* of the harbour. And, although Dumbarton has been in possession, ever since, of most of the dues, yet the Lords found their possession, from time to time interrupted, *via facti*, and *via juris* also.

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