

years. The defender *alleges*, This summons could not be proved but by writ or oath of party. THE LORDS found, that it might be proved *prout de jure*, because such probations for the grazing of goods were not usually made by writ, and so may be proved by witnesses.

No 223

Auchinleck, MS. p. 154.

* * * This case is also reported by Spottiswood :

By paction and agreement made between James Stirling and John M'Phadrick, 1625, the said John was obliged to graze four mares to the pursuer James for four merks yearly, and to make their offspring forthcoming to him yearly. Upon this paction James convened him for re-delivery to him of the said four mares and their foals for the space of three years. It being *alleged* by the defender, That the libel being founded upon a paction, could only be proved *scripto vel juramento*; the LORDS notwithstanding sustained it to be proved *prout de jure*.

Spottiswood, (PROBATION.) p. 243.

1629. January 16.

ALLISON *against* FULLARTON.

AN account consisting of sundry articles, whereof none of them exceeds L. 100, although the account of the whole sum extended to a far greater sum, may be proved by witnesses.

Fol. Dic. v. 2. p. 230. Auchinleck, MS. p. 155.

1632. November 24.

TURNER *against* KER.

No 224

ONE Turner, taylor in Edinburgh, pursuing one Margaret Ker for payment of the price of sundry gowns and habuilziements taken off by him, and furnished by him to her and delivered, and which was libelled to have been done by him at her direction; the LORDS found this summons, concerning that direction and furnishing, should be proved by writ or oath of the defender, and found it not probable by witnesses, the price libelled extending to L. 400.

Act. Rigg.

Alt. Mowat.

Clerk, Hay.

No 225

Fol. Dic. v. 2. p. 230. Durie, p. 652.

1662. February.

LD. LIVINGSTON *against* FEUARS of FALHOUSE.

No 226

DIFFERENCES about marches may be submitted and determined verbally, and both submission and sentence may be proved *prout de jure*.

Fol. Dic. v. 2. p. 230. Gilmour.

* * * This case is No 48. p. 2200, *voce* CITATION.