

ARBITRATION.

Power of Arbiters.

1539. *March 12.* JOHN MELVILL of Carnegie, *against* AGNES STRANG.

THERE is ane difference betwix the decrete of arbiteris and the sentence or dome of a judge; for ane ordinar judge may put his decrete to executioun, and punish the partie difobedient thairto; but ane arbiter may not punish the partie that is contumax and difobedient to his deliverance, but gif he have special power gevin to him be the parties thairanent, in the compromit. And, therefore, ane sentence and decrete-arbitral beand gevin aganis ony partie, he aucht and fould fulfill and obey the famin, and has na place to perfew for reduction thairof, gif he, beand of perfeit age, was fworn, and oblist in the compromit to stand at the decrete-arbitral to be gevin betwix him and his partie, be the arbiteris chofin betwix thame: And ficklike the parties are oblist to obey the decrete, and not reclame thairfra, gif in the compromit it was exprefslie contenit, that quhat decrete fould be gevin betwix him and his partie, thay renunce all manner of appellatioun or reclamatioun thairfra, *etiamsi sequatur læsio enormis, vel in maxima quantitate*. Because the effect of arbitrie is, that the sentence thairof fall stand, and be obeyit, quhidder the famin is justlie gevin or not, swa that it be not gevin exprefslie aganis the law, or be fraud or deceit done and committit be ony of the arbiteris; for ilk arbiter fould be void of all fraud and guyle.

Balfour, (ARBITRIE.) p. 415.

1553. *December 5.* TENANTS of Dennie, *against* LORDS FLEMING and SANCTJOHN.

GIF ony actioun or caufe be compromittit in friendis or ony uther jugeis arbiteris, the famin may not be perfewit before ony judge *in foro contradictorio*, until the decision or end of the compromit.

Balfour, (ARBITRIE.) p. 415.

No 1.

An arbiter has no power to enforce his decree.

No 2.

Submission stops process in any Court.