

1610. July 6. MR JOHN JOHNSTON *against* WILLIAM NAPIER.

IN an action of a reduction of a decret arbitral, pursued by Mr John Johnston against William Napier, the LORDS found, that a submission might be made to judges, with power to them to decide when they please, and the submission to endure as long as they will; and sicklike, albeit, the LORDS, by their decret, had ordained the judges to proceed *secundum alligat*; anent *probatum est*; yet the LORDS would otherways astrict the said judges thereto: And last, albeit there was a partial decret given of before by the same judges, ordaining William Napier to pay a certain sum of money to Nicol Edward, who was party submitter, which was contrary to the last decret, whereby William Napier was affoilzied from all the points of Nicol Edward's claim, and also Nicol decerned to pay, to the said William Napier, the sum of 4000 merks; yet the Lords sustained the said last decret.

No 25.

A submission was sustained, where the judges were empowered to decide when they pleased, and the submission to endure as long as they chose.

*Kerse, MS. (ARBITER.) fol. 180.*

1612. January 31. CAMPBELL *against* CALDER.

IN an action betwixt Colin Campbell of Clunie, and Thomas Calder, the LORDS found, a decret arbitral null, because it was pronounced by the oversman *ante tempus definitum in submissione*. (See No 55. p. 655.)

No 26.

*Kerse, MS. (ARBITERS.) fol. 180.*

1630. February 25. JAMES HAY of Tourlands, *against* EARL of EGLINGTON.\*

A DECRET of spuilzie of teinds, obtained by the Earl against James Hay, being suspended by him, upon a reason founded upon a bond of submission, made by the Earl to the Laird of Caprington; whereby he submitted to the Laird Caprington, what the said James should do to him, for the said decret; by which bond he obliged him to abide at whatsoever Caprington should decern, and declare thereanent, the submission and bond being only subscribed by the Earl, and not by the other party nor Caprington, and having no time therein-contained betwixt and which the judge was holden to decern; and he having decerned by the space of four years after the date of the said bond, at least the decret produced by the suspender in writ, being written of that date, but reporting, that the judge decerned the next morning, after the date of the submission; and that he had intenate the sentence to the party submitter at that time, which he had then put in writ, of that date whereof it was produced; whereupon the Earl proponing nullity, and having intented reduction upon that same reason of nullity, *viz.* That it was dated after year and day; and that the relation therein bearing it to be done *deb. to tempore*, ought not to be respected, being a declara-

No 27.

An arbiter may determine at any time, even beyond year and day, after the date of a submission, bearing no time within which he should determine, provided the parties submitters be alive at the time of the decret.

\* By mistake in the Fol. Dic. the parties are named, *Maxwell* against *Roger*.