

1628. March 18. BALMANNO against MAXWELL, &c.

No 18.

ALEXANDER BALMANNO had a tack of a feu set to him by John Maxwell, whose wife was heretrix of the land, and had not consented to the tack, but had consented, after the setting of the tack, to the alienation of the tenement to another person. Alexander *ex capite inhibitionis* seeks reduction of the infestment, in so far as it might prejudice his tack, and summons, in this action, only Mr John Maxwell, setter of the tack, and the persons to whom the said John, with consent of his wife, had analized the land after the inhibition. It was *alleged*, That the wife of John Maxwell, who was heretrix of the land, and had disposed the same, with warrandice, ought to have been summoned. THE LORDS found there was no necessity to summon her.

*Auchinleck, MS. p. 185.*

1628. December 17. SCOT against LOGAN.

No 19.

IN the reduction of a comprising, the heir of him from whom the land was comprised, who was *alleged* to have ratified the said comprising, needs not to be summoned.

*Auchinleck, MS. p. 185.*

1629. January 10. EARL of GALLOWAY against N. GORDON.

No 20.

IN a declarator of escheat pursued by the Earl of Galloway against N. Gordon, there were two charges and denunciations produced upon one horning, which the defender offered to improve; and likewise *alleged*, He offered to prove that the time of the charge, which bore to be given at his dwelling-place in N. he was dwelling elsewhere, which last allegiance he craved might be presently discussed, or at least reserved to him particularly to reduce thereupon, notwithstanding of the proponing of improbation before. The pursuer *contended*, it should only be reserved *prout de jure*; yet the LORDS reserved it *simpliciter*, there being some of them who thought it might be taken *in hoc loco*, and discussed.

*Spottiswood, (REDUCTION.) p. 279.*