

1629. *March 6.* HAY *against* LAIRD of GIGHT.

No 21.

A DECRET of a Baron Court reduced, because it made no mention of the defender's compearance, nor yet that he was cited, nor gave up no other probation, but upon preceding accounts for confession, notwithstanding the defender of the production offered to prove that the person against whom decret was given, was summoned by the officers, that he was present at the Court, and that he confessed the debt. THE LORDS would not sustain this supplement, otherwise than by the defender's oath, against whom decret was given.

*Auchinleck, MS. p. 185.*

1629. *March 10.* MAITLAND *against* HAMILTON, &c.

No 22.

MR RICHARD MAITLAND pursues Sir John Hamilton, and certain Tenants of the lands of Bargeny, for payment of certain annualrents addebted furth of the said lands, to James, Lord Ochiltree, wherein the said Lord stood infest, unto which annualrent the said Mr Richard had right, and craved pointing of the ground. It was *alleged* by Sir John, that he had intented reduction of the said Lord Ochiltree's right to the said annualrent, until the reduction was discussed, no process, at the defender's instance, seeing the same was prejudicial. It was *answered*, His reduction was intented, since the raising and executing of the pursuer's action. In respect whereof the LORDS found process, but declared they would have consideration ~~before sentence~~, of Sir John's diligence, in discussing of his action of reduction.

*Auchinleck, MS. p. 169.*

1629. *December 21.* CUNNINGHAM and CLERK *against* BORTHWICK.

No 23.

Effect of a  
decret reducti-  
ve.

A BOND made by umquhile James Borthwick to David Clerk being registered, and after the decease of James Borthwick transferred in one representing him, and thereupon comprising being deduced, thereafter the bond and comprising is reduced for not production. Cunningham, assignee to Clerk the creditor, after this reduction, pursues transferring of that registered bond, and of the said decret of transferring, obtained by his cedent; wherein the defender alleged, while that decret reductive were taken away, whereby the bond was reduced, that the bond could not be desired to be transferred; which allegiance was repelled; for notwithstanding of the decret reductive, the LORDS found the transferring ought to proceed, without necessity to reduce the decret reductive, seeing the bond was registered, and which was known to

REDUCTION.

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the party, seeing he had deduced comprising thereon, and so could not be reduced for not production; and in that sentence reductive, the bond was not called for to be reduced, but only the comprising, neither was there any reason libelled against the bond, but only against the comprising, and therefore the transferring was sustained as said is.

No 23.

Clerk, Hay.

Durie, p. 477.

1630. February 5. KINGHORN against STRANG.

UMQUHILE Sir John Campbell of Lundie having obtained the gift of non-entry of the lands of Pittedie, appertaining to John Lord Glamis, John Campbell, his son and heir retoured, makes assignation of this gift to Robert Strang 1584, which Robert obtained declarator thereupon, and compriseth the same lands for the bygone non-entry duties. The Earl of Kinghorn inteded a reduction of this comprising, with all that had proceeded, against George Strang, heir to Robert. In the reduction, *alleged*, The defender should not produce the assignation made by John Campbell to Robert Strang, neither yet John's retour, whereby he was served heir to his father Sir John, in respect that the pursuer derived no right from them. *Replied*, They being a ground of the comprising sought to be reduced, he had good interest to call for them to that effect. *Duplied*, He had libelled no reason against them, and so no necessity to produce them. *Triplied*, He had a reason of improbation libelled against the whole writs called for. THE LORDS found the defender should not be obliged to produce the said retour and assignation after so long a time.

No 24.  
Found not necessary to produce as a title, a retour and assignation of old date.

Spottiswood, (REDUCTION.) p. 270.

1630. March 3. ORD against COUPER.

IN the reduction of a decret obtained by a party, who thereafter had deduced himself, and transferred the said decret in the person of another, which person had, upon his transferring, used all ordinary execution of horning and caption at his own instance; the first party obtainer of the said decret needed not to be summoned.

No 25.

Auchinleck, MS. p. 185.

1630. March 5. EARL of WIGTON against EARL of CASSILLIS.

IN an action of reduction and improbation pursued by the Earl of Wigton against the Earl of Cassillis, for reducing of all rights made by the pursuer's

No 26.  
Found sufficient for the pursuer to prove *cum*