

## S E C T. V.

## Grounds and Warrants of Decrees.

1680. July 29. STROWAN *against* MARQUISS of ATHOL.

No 28.

CERTIFICATION was refused against a decret of an inferior court, pronounced above eight score of years before, a charter of apprising following thereupon and infeftment being produced, the decret falling to be in the clerk's hands; and though the party ought regularly to condescend upon the date, yet that could not be prequired *post tantum temporis*.

*Fol. Dic. v. 1. p. 355. Stair.*

\* \* \* See this case, No 27. p. 5195.

1693. February 2.

MR WILLIAM IRVINE of Woodhouse *against* GRAHAME of Mosshow.

No 29.

THE LORDS found a defender, in a reduction and improbation, was not obliged to produce any other grounds and warrants of the decret craved to be reduced, but only such as had been their own proper evidents and writs, and produced by themselves *in modum tituli* or otherwise; as for instance if I obtain a decret on a bond, if that decret be afterwards quarrelled by a reduction, I am bound to produce that bond, else he will get certification against it; but if they be writs by which I proved the passive titles on the defender, or by which I proved he acted as tutor, (as in this case) and which I recovered out of third parties hands, I am not bound to re-produce these, when you call for them in a reduction of the decret. Besides that here, I find Bonshaw is found liable as tutor by the decret, but *non constat* whether it was by a nomination accepted, or by discharges to tenants, or other deeds, that proved his being tutor.

*Fol. Dic. v. 1. p. 355. Fountainball, v. 2. p. 553.*

1699. February 9. The EARL of NORTHESK *against* PHINEVEN.

No 30.

A bond, found null, was not allowed to be given up to the defender

THE EARL of Northesk pursues a reduction against Phineven, his uncle, of a bond of provision for L. 40,000 Scots given him when he was young, and *in familia*. The reason was, that his father, in Phineven's contract of marriage, had given