

- No 2. not upon the property thereof, and so the Abbot and convent could not get hurt nor yet profit of this cause, however it go; and so the witnesses were admitted, albeit the other party's procurator, Mr Hew Rig, alleged, that they should have been repelled, quia erant tenentes dicti Abbötis, et agebatur super partes, et pertinen. predictarum terrarum ad eundem, ut prædictum est speciatim.

Sinclair, MS. p. 15, 20, 24.

1542.

LIVINGSTON *against* WOOD.

- No 3. THE Laird of Livingston intented action of reduction of a decret given against his father, at the instance of David Wood, comptroller, which decret was given by virtue of an obligation produced by the said David, which obligation the pursuer in this reduction craved to be produced, that he might improve the same. THE LORDS would not sustain the reason of reduction, quia procurator actoris in prima instantia non excipiendo de falsitate, imo proponendo aliam exceptionem, tacite visus est illam approbare: And as the pursuer's father, if he were alive, would not be heard to improve the same which he has once approved, as said is, no more could his son and heir, at least his successor who is in his place and right. Et de jure, exceptio falsitatis post sententiam non potest opponi.

Spottiswood, (REDUCTION.) p. 269.

1542. June 20.

Lord OGILVIE *against* JOHN CAMPBELL.

- No 4. ALBEIT ane man intent summondis for reduction of ony decrete or sentence gevin and pronouncit aganis him, the dependance of the said summondis, or cause of reduction, sould not stop or delay the executioun of the decrete. *Fol. Dic. v. 2. p. 326. Balfour, (OF REDUCTION OF SENTENCE.) No 4. p. 406.*

. Sinclair reports this case :

In the cause of the Ld Ogilvie against Sir John Campbell of Lundie; there were certain lands of the said Lord's as pledge and surety for the Laird of Dunoon comprised to a woman called M; and these lands being apprised to her, she caused assign to the said Sir John for money, who, by reason thereof, obtained infeftment thereof by the Earl of Crawford, superior of the same. Thereafter the said Lord got a decret of the Lords of Council, upon which these lands were apprised, reduced, the said Sir John not called thereto; and