

No 8.

to him, and will not be obliged to warrant him, as was decided betwixt Polmais and Redhall. *Duplied*, Seeing she is infeft publicly, and may be harmed by this action, her infeftment being reduced, she should have been summoned thereto. *Triplied*, Her infeftment not being called for *principaliter*, but only falling in *consequentiam*, he needed not to call her; and the furthest that can be sustained for her who is liferenter, is to suffer her to compare for her interest, and concur with the defender. Repelled this allegation.

Spottiswood, (REDUCTION.) p. 269.

No 9.

1623. December 12.

CROMBIE against _____.

IN an action Crombie *contra* _____, the LORDS found, That an action and summons of reduction might be sought to be transferred against the apparent heir, and in the apparent heir of him against whom the reduction was intended; because, as the reduction might be at the beginning pursued against the apparent heir, so might it be transferred *pari ratione* in the apparent heir of the defender in the reduction, he dying after the intending of the action; albeit he was neither heir nor charged to enter heir.

Clerk, Hay.

Durie, p. 92.

No 10.

1625. July 29.

E. of WIGTON against GEDDES.

THE LORDS repelled an exception proponed upon a sasine at a removing, in respect of this reply, that the sasine proceeds upon a charter and precept, discerned to make no faith, and that notwithstanding it was *duplicith*, that the sasine stands unreduced cled with 15 years' possession.

Kerse, MS. fol. 207.

No 11.

Where a testament was sought to be confirmed, the cause was allowed to be advocated from the

1626. July 26. NISBETS, ARTHUR'S OYES against His RELICT, and M'MORAHAME against M'MORAHAME.

IN an action betwixt the Relict of Mr John Arthur and his Oyes, the Bairns of Mr Patrick Nisbet, the LORDS sustained an action of advocacy from the Commissaries of Edinburgh, of a testament of the said Mr John's, desired to be confirmed before the Commissaries by his said relict, who was his executrix nominated in the said testament, and discharged the said Commissaries to pro-

ceed in the confirmation thereof, until an action of reduction, intended before the Lords, for reducing of the said testament, was first discussed, intended at the instance of the said Oyes against the Redict; but the Lords assigned a day in December to the said reducers, to discuss the said reduction, after the which day they would consider if any further day should be granted, to end the reduction, or if then the matter should be remitted.

Nota. Four days before this, the contrary was done, betwixt M'Morahame and M'Morahame, where a testament craved to be confirmed, and desired to be advocated upon the like dependence of a reduction, the same was refused, and the matter remitted to the Commissaries.

Act. *Hope & M'Gill.*

Alt. *Stuart & Nicolson.*

Clerk, *Gibson.*

Fol. Dic. v. 2. p. 327. Durie, p. 228.

No 11.
Commissaries in consequence of a depending reduction; but, in a like case, a few days after, advocacy was refused.

1627. February 13.

A. against B.

No 12.

In a reduction, the extract of a registered writ doth satisfy the production, though it be registered after the intending of the cause. Otherwise, in an improbation, wherein the principal must be produced.

Spottiswood, (REDUCTION.) p. 266.

1627. December 21. EARL OF MARR against His VASSALS.

No 13.

In the action of improbation pursued by the Earl of Marr against his Vassals in Marr and Garioch, he called for all writs by my Lord Erskine, or Earl of Marr *nominatim*, or by Dame Isobel Douglas, or Margaret her mother; or by Thomas, brother to Margaret, or by any other of his successors, to whom he may succeed *jure sanguinis*. It was *alleged*, He could not call for writs made by Margaret, Donald, or Thomas, because the Earl of Marr, himself, produced no elder right to instruct his title, but that which was made by Dame Isobel Douglas. THE LORDS found that he had right and interest to pursue for reduction of the writs called for in the improbation, but reserved to them that produced elder rights than Dame Isobel's all their defences to be produced in the action of improbation.

Auchinleck, MS. p. 184.

1628. February 2.

A. against B.

No 14.

A SUMMONS of improbation and reduction being pursued by the defender produces his writs, to have the improbation, but refuses to reason.