

No 71.

first decret of ejection being reduced afterwards by the defender's son, the comprising, and all that followed thereon, behoved to fall *in consequentiam*; and so Anderson younger sought to be repossessed. *Excepted*, That notwithstanding of the decret reductive, the pursuer could not be repossessed, because the defender obtained not possession of the lands, by virtue of his decret of removing, obtained after the comprising, but *aliunde et ex alia causa, et ab alio auctore*, and produced, *instanter*, to verify the same, certain writs and infeftments. *Replied*, That the defender could not be heard to allege any other cause of possession than that by which the pursuer and his father were dispossessed; for if so were, all decreets of repossession and redemption might always be eluded by alleging of forged titles *aliunde et ex alia causa*.—THE LORDS, *in presentia regis*, repelled the allegiance, and ordained the pursuer to be repossessed.

Fol. Dic. v. 1. p. 599. Spottiswood, (POSSESSION.) p. 229.

No 72.

1592. November 30. Mr WILLIAM LESLIE *against* TENANTS of NEWABBEY.

MR WILLIAM LESLIE pursued certain Tenants of the Newabbey, to remove at his instance, who was lawfully provided to the benefice, and had obtained letters conform to his provision and decret, ordaining all and sundry the tenants to make him payment. It was *excepted* by the tenants, That they could not be decerned to remove at his instance, because they bruiked as tenants to Mr Gilbert Brown, abbot, provided and in possession long before him. It was *answered* for the said Mr William, That the exception should be repelled, because he offered him to prove, that he was in possession by virtue of his title, by uplifting of the mails and duties of these same lands from the same defenders; which was found relevant by interlocutor.

Fol. Dic. v. 1. p. 599. Haddington, MS. No 38.

No 73.

1631. February 22. MURRAY *against* Lord YESTER.

IN a declarator of redemption of lands, the LORDS found that the conclusion of the libel, craving the defender to be decerned to renounce all right and title which he had to the lands any manner of way, ought not to be sustained, and that no sentence could follow, but to decern the defender to renounce all right which he had to these lands, derived from the pursuer, and no further.

Fol. Dic. v. 1. p. 599. Durie.

* * * This case is No 45. p. 3711. *voce* EXECUTION.