

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

No 21.

A DECREE of a Baron Court reduced, because it made no mention of the defender's compareance, 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
decreet reduc-
tive.

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