

THE LORDS did resolve, and caused intimate to the advocates, That hereafter they would only give two terms in reductions, and three terms in improbations.

No 14.

Fol. Dic. v. 1. p. 466. Dirleton, No 111. p. 47.

*** Stair reports this case :

MR JOHN HAY having pursued a reduction of the rights of some lands against Mr John Drummond, and called for the rights made to him by umquhile Patrick Hepburn, Mr John Drummond got three terms to produce, reserving his defences, and at the last term *alleged* no certification against the rights granted by Patrick Hepburn, because none to represent Patrick Hepburn were called. A diligence was granted *incidenter* to the pursuer to call the representatives of Patrick Hepburn, whereupon he cited Patrick Hepburn his eldest son, and apparent heir, who having gotten one very short term, and that circumduced against him, it was now *alleged*, That all the terms ought to be granted to Patrick Hepburn, seeing he was a party necessary to be called, and his rights were to be reduced.—The pursuer *answered*, That this being a single reduction *de jure*, there was no more due but one term. *2dly*, Albeit more were due, yet Mr John Drummond having run three terms already, he can crave no more but one, upon the account of Patrick Hepburn his author.

THE LORDS, in respect the term assigned to Patrick Hepburn was but on six days, allowed him a second term; and ordained it to be intimated by the Ordinary to the advocates, that in single reductions of rights of lands, they would grant two terms for production, and in reductions and improbations three only.

Stair, v. 1. p. 489.

1672. June 14.

WALLACE *against* PURVES.

No 15.

THE LORDS found, That a declarator of right, which ought to be upon 21 days, being privileged by a bill, which is *periculo petentis*, should not be sustained, being executed upon a shorter term; and ordained that the writers to the signet should not insert in bills and summonses, a privilege dispensing with the law, and the *solemes induciæ* thereby introduced in favour of defenders; under the pain of 100 merks for the first fault, and deprivation for the second; except in cases which by the law are privileged and named: The President, Advocate, and others of their number, to meet and consider what these should be.

Fol. Dic. v. 1. p. 465. Dirleton, No 167. p. 68.

* * Stair reports this case :

No 15.

WALLACE pursues a declarator of property and right against Purves, for declaring the right of a tenement of land in Edinburgh, and of a well belonging thereto.—The defender *alleged* no process, because he was only cited upon six days, whereas declarators require twenty-one days.—It was *replied*, That the Lords, by their deliverance, had privileged the summons to be upon six days.—It was *answered*, That the said privilege was not past by the Lords, *ex certa scientia*, but of course, as a common bill, without reading, and so was *periculo petentis*, and not being consonant to law, is null.—The pursuer *replied*, That though it might have been the fault of the writers or clerks to have inserted such a privilege, yet being granted, and used by the pursuer *bona fide*, it ought to stand, being past upon this special consideration, that both parties dwelt in Edinburgh, and that many more days had intervened before it was called.

THE LORDS sustained not the privilege, but ordained the writer of the summons to receive a reprimand, and appointed an act of sederunt to be intimated to them and the clerks, that no such privilege should be inserted in bills for any summons, except for such particular summonses as are mentioned in the act; for they considered that 21 days was little enough for defenders to fit themselves for their defences.

Fol. Dic. v. 1. p. 465. Stair, v. 2. p. 84.

No 16.

1700. July 18. DUNDAS of Manner *against* HARDY.

MANNER having fined Mr William Kintore for sundry absences from the head courts of the shire of Linlithgow; and having summarily poinded the tenants for the amerciamento; and alleging that suit and presence being in the *reddendo* of the charter, it was of the same nature with the feu-duty, and might have summar execution; else, what if the heritor dwell in another shire, the King's head courts may become desolate; yet the LORDS did think this procedure to poind the tenants precipitant, without a previous decret of poinding; and without deciding whether these laws were *debitum fundi* or not, they found the poinding illegal, and the bond granted to stop it null; and reponed the master and tenants to their defences. See VIS ET METUS.

Fol. Dic. v. 1. p. 466. Fountainhall, v. 2. p. 105.

No 17.

A person was cited before a Commissary, upon two or three days. The Lords refused to advocate the

1701. December 23. BALFOUR *against* HAY.

MR JAMES BALFOUR of Randerston pursues Peter Hay of Leys before the Commissary of St Andrew's, for scandalizing and defaming him, by saying in some companies that Randerston had forged and put to his subscription to the