

1627. July 13.

SETON *against* HOME.

No. 73.

A superior having suspended a charge to infeft the vassal, and consigned a precept of sasine in the Clerk's hands, but alleging that he had a reduction depending of a charter granted by him to the charger's father, which behoved first to be discussed; yet the Lords ordained the precept to be given up to the charger, for otherwise they thought that all charges out of the Chancery might be eluded and put off by a reduction. See APPENDIX.

Fol. Dic. v. 2. p. 410. Spottiswood.

1630. January 23.

PEEBLES *against* LORD ROSS.

No. 74.

It being alleged for a superior charged to infeft the apparent heir of his vassal, that the lands belonged to himself upon the account of recognition incurred by the father; this was not found sufficient to stop the entry, seeing the recognition was not declared; but the Lords, in their decree, made a reservation of whatsoever was the superior's right *prout de jure*, wherein they declared, That he should not be prejudged by his necessary obedience in entering the vassal.

Fol. Dic. v. 2. p. 401. Durie.

* * This case is No. 19. p. 15019.

1633. March 7.

L. COVINGTON *against* LORD BALMERINOCHE.

No. 75.

The Lord Fleming having comprised some lands of the Laird Covington's from him, which were holden by ward-holding of the Lord Balmerinoch, the L. Covington being minor, and having charged the Lord Balmerinoch to enter him; who suspending; it was disputed if the superior could be in law compelled to enter the compriser, during the minority of the L. Covington, his vassal; for he alleged, he could not be compelled to do the same to the compriser, no more than he could be compelled to enter the minor's self during his minority, the minor holding ward of him, during which space he could not be urged to change his vassal, and tyne his commodity of the casualty of that holding. And the pursuer alleged, that he ought to enter him the compriser, who was, as he alleged, in another case than the minor from whom he comprised; seeing he was content that the superior's entering of him should be without prejudice of all his casualties in law due to him, *prout de jure*; but this question, upon hope of agreement, was superseded to be decided.

Act. Stuart.

Alt. Nicolson.

Clerk, Gibson.

Durie, p. 679.