

they have decerned the right of the most part of all the sums truly due to the executors only, against all reason, although the said George was not then within the country, nor hath subscribed the same himself, nor no other for him, taking the burden for him, and who was then and is yet minor; and who, if he were hurt by that decret, could not be bound thereby.—THE LORDS having heard both parties, they found, that none of these parties can claim any more right to any of the sums controverted, except the proportion decerned to ilk one of them by the said decret; which decret-arbitral the LORDS sustained as lawful and valid, albeit it be not given within the year after the submission; in respect, albeit the year was long expired before the judges decerned, yet they found the decret good and sufficient, being done, and following not upon a naked submission, but the submission containing also a bond, whereby the parties gave power to the judges to determine what proportion of the umquhile Colonel his goods should be decerned by them in favours of the said George, and obliged them to abide thereat, which bond was more than a submission, and there was not any day nor time contained in the said submission and bond, nor any blank left therein, nor clause conceived thereanent, betwixt and the which the judges should decern; and therefore it was found, that upon a submission containing such a bond, and bearing no day, there was no necessity to the judges to decern within the year; neither was it respected that George was out of the country and did not subscribe it, and that he was yet minor, in respect it was a clause conceived in his favours which he did accept of, and so might thereby better his case; and therefore the LORDS repelled the allegiance proponed for the executors, &c.

No 28.

*Act. Dunlop for Beaton. Advocatus & Stuart for George.*  
Clerk, Gibson.

*Alt. Nicolson.*

*Fol. Dic. v. 1. p. 50. Durie, p. 883.*

1665. February. MENZIES against M'GRIGOR.

No 28.

IN an action betwixt Menzies and M'Grigor, the LORDS found, That a submission, bearing no day betwixt and which the arbiters should determine, expires after year and day, and is not as a bond obliging parties to a submission, which doth not so expire.

*Fol. Dic. v. 1. p. 50. Gilmour, No 140. p. 102.*

1672. February 23. WALLACE against WALLACE.

No 30.

WALLACE of Carnall pursues a reduction of a decret-arbitral, pronounced betwixt him and Captain Kennedy, by which he was found debtor to Captain Kennedy in 5000 merks; and which decret was now assigned to Edward Wal-

A submission blank, in the endurance lasts but for a