

1665. *January 11.* MARGARET ARNOT *against* MR ROBERT ARNOT.

MARGARET ARNOT pursues a reduction of a decret of exoneration, obtained by William Arnot, her uncle, and executor to her father.—It was *alleged* for Mr Robert Arnot, son and successor to the said William, That all parties having interest were not called, viz. the creditors and legatars, who were concerned in the event of the reduction ; for if their sums and discharges were not allowed, according to the exoneration, the defender behoved to return upon them for payment ; and therefore they ought to be called to defend their interest.

THE LORDS repelled the defence, and found no necessity to call the creditors and legatars, but that the defender might intimate the plea to them.

*Fol. Dic. v. 1. p. 138. Stair, v. 1. p. 248.*

\* \* Newbyth reports the same case thus :

IN a reduction of a decret of exoneration, pursued by William Barber and Margaret Arnot against Mr Andrew Arnot, wherein it was *alleged* there could be no certification, because the creditors and legatars of umquhile John Arnot, to whom Mr Andrew Arnot, the defender, his executor, had made payment of their debts and legacies, and whereupon the decret of exoneration was recovered, were not called.—THE LORDS found there was no necessity to call the legatars and creditors of the defanet ; that the not calling of them could not stop certification ; but that the defender might intimate the plea to them.

*Newbyth, MS. p. 17.*

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## SECT. XX.

### Citation in Reductions and Improbations.

1622. *November 26.* EARL OF MARR *against* LORD ELPHINSTONE.

THE Earl of Marr and Lord Erskine pursued the King's Treasurer, Advocate, and the Lords Elsphinstone and Kildrummie, for production and reduction of a testimonial or decret pronounced by the Justice General, and Sheriff of Aberdeen, in a Justice Ayre, in *anno 1457*, annulling the Lord Erskine's title to the Earldom of Marr, and serving the Lord Erskine's brief *negative, &c.* The defenders having produced the Lord Elsphinstone's infestments, and having taken a day of their own consent to produce the said testimonial or sentence ; of their

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No 78.

Reduction of a decret of exoneration, sustained against the executor, without calling the creditors or legatees.

No 79.

The clerk register found to be a necessary party to be summoned, where the King's writs in his keeping are called for to be reduced.