

S E C T. XXIV.

Effect of an Order to stop Extract.—Reduction repeated *incidenter*.

1746. December 10. HAMILTON against CLARK.

No 393.

A decree cannot be extracted after a representation on the merits of the cause, ordained to be answered, tho' a fortnight has elapsed since the interlocutor.

GILBERT CLARK, writer in Edinburgh, pursued John Hamilton, Ensign in the service of the States of Holland, on the passive titles, as charged to enter heir to his father; and no renunciation being produced, obtained decret against him: But a representation being given in, it was ordered to be answered, and, in the mean time, extracting stopped, 3d July 1746.

Mr Clark extracted his decret, 31st October, in respect, as it bore, the stop expired in a fortnight.

A complaint was given in, at advising which it was observed, that the act of Sederunt 1708 concerned only stops subjoined to representations, craving opportunity to be heard *viva voce*, as was then the custom, but not on representations discussing the whole merits of the cause, and ordained to be answered.

THE LORDS found that the decret was unwarrantably extracted, and recalled the same.

Act. Maitland,

Alt. A. Macdowal.

Clerk, Forbes.

Fol. Dic. v. 4. p. 151. D. Falconer, v. 1. No 146. p. 185.

1747. February 24. WEIR against WHITE.

No 394.

A REDUCTION repeated *incidenter*, and not executed, can go no farther than the effect of the claim in the suspension or libel of the other process, into which it is repeated.

Fol. Dic. v. 4. p. 149. Kilkerran.

*** This case is No 17. p. 4034. *voce* EXPENSES.

What title necessary to carry on a process; See TITLE to PURSUE.

Process against delinquents; See DELINQUENCY.

Trial for forgery; See IMPROBATION.

Effect of fugitation; See PERSONA STANDI.

Form of depositions; See WITNESS.

Fugitation in treason; See FORFEITURE.

What writs may be produced, what parties cited, what titles made up *cum processu*; See QUOD AB INITIO VITIOSUM.

See OATH of CALUMNY.—OATH IN LITEM.—OATH OF PARTY.

See TRANSFERENCE.

See 6th June 1665, Thomson, *voce* PUBLIC OFFICER.

See 21st January 1801, Smith, in Appendix; See APPENDIX.