

# C O M P E T E N T.

## S E C T. I.

Decree cannot be done away except by Reduction.

1582. *May.*

DOUGLAS *against* MENZIES.

**T**HERE was ane Douglas that desired to be *answered*, and to have letters conform upon suspension furth of the personage of Glasgow. It was *alleged* be David Menzies, minister, and also person of Glasgow, that the pursuer's decret gift, and all that followed thereupon, was null of the self, because the aith that was given be Mr Archibald Douglas, person of Glasgow; and gif it was swa, it was null in the self, be reason of the acts of Parliament made anent the murder of the King's Majesty's Father and Regents, that whatsomever disposition, made be the committers of the said crime, *a die commissi criminis*, should be of no force nor effect, as into the Parliament LXXI. and the third act. And the said gift was of the date sen the commission of the said horrible crime, to the said Mr Archibald; and gif the said gift were otherways given *sede vacante*, the Regent had na power to doe the samen. To all this was *answered*, That the said gift of pension, with the Lords decret past thairupon, could not be tane away be way of exception, but behoved to byde reduction, *et vice actionis agendum fuit*. And in respect that the persewar had been in possession be virtue of his decret, the LORDS, after long reasoning, fand, be interloquitor, that in respect of the Lords decret past upon, that the same could not be tane away be way of exception. *Bona pars flominorum in contraria fuerunt opinione* be reason of the act of Parliament foresaid, and that of another act of Parliament, whairin it was ordained, that nullities may come in be way of exception.

*Fol. Dic. v. I. p. 169. Colvill, MS. p. 146.*

**No 1.**  
Found that a decree of the Lords could not be taken away by exception, although pronounced manifestly against the act of Parliament, 1571, c. 36.