

1614. December 17.

The LAIRD of BALHAGARTIS *against* The LAIRD of GLENKINDY.

No 36.

Found that a decree-arbitral could not be transferred. Parties might submit by a judicial act.

IN an action, pursued by the Laird of Balhagartis against the Laird of Glenkindy, for transferring of a decret-arbitral, the LORDS found that a decret-arbitral could not be transferred; but that they would give letters conform thereto. *Item*, in the samen cause, the LORDS sustained a judicial act, whereby the parties submitted themselves, in presence of the Sheriff, to a third person, the act being dated in *anno* 1577.

*Kerse, MS. (ARBITERS.) fol. 180.*

No 37.

A decree arbitral sustained, though pronounced *in ipso termino*; i. e. upon the very day betwixt and which it was to be pronounced. See No. 46.

1614. December 21.

MONTEITH *against* CARMICHAEL.

IN an action betwixt Robert Monteith and William Carmichael, the LORDS sustained a decret-arbitral, which was pronounced *in ipso termino*, upon the day betwixt and the which the decret should have been pronounced. And in the same cause the Lords would not hear the said Robert Monteith to improve by way of suspension, albeit he offered to improve the same by the oath of the judges who were both present.

*Kerse, MS. (ARBITERS.) fol. 180.*

No 38.

A decree arbitral, upon a judicial act of submission, sustained, where the parties did not subscribe.

1615. January 10.

ERSKINE *against* STRACHAN.

IN an action pursued by John Erskine of Balhagart *contra* William Strachan of Glenkyndie, for fulfilling of a decret-arbitral, proceeding upon a judicial act of submission made before the Sheriff of Aberdeen in *anno* 1577, betwixt James Gordon of Haddo, brother of Balhagart, and William Strachan of Glenkyndie, goodfir to this Glenkyndie, the LORDS sustained the judicial act, because it made mention of the dependence of the action of cognition depending betwixt the parties; and found the same good, being before the act of Parliament 1579, notwithstanding it was not subscribed by the parties.

*Kerse, MS. (ARBITERS.) fol. 180.*

No 39.

Where there were several arbiters, no witnesses necessary.

1615. June 22.

MONCUR *against* MADDELL.

IN an action pursued by Christian Moncur, Lady ———, and Alexander Maddell, burghers of Forfar, there being a decret-arbitral produced to prove an exception, it was *alleged*, That the decret was null, because it wanted witnesses. — THE LORDS found, that there being four judges subscribing, they might be witnesses to others, as in charters subscribed by a convent.

*Kerse, MS. (ARBITERS.) fol. 180.*