

No 36.

1623. December 4. GICHEN *against* DAVIDSON.

IN a reduction of interdiction, pursued by Marion Gichen against John Davidson and Paul Hay, the LORDS found the reason relevant, that the pursuer was *rei suæ provida*, and that no trial was taken, by any judge, that she was not able to manage her own affairs; and, in that case, was remembered the like reasons were found relevant in the action betwixt Colin Campbell and the Laird of Glenurchie, No 35. p. 7158.

Fol. Dic. v. 1. p. 480. Haddington, MS. No 2939.

* * * Durie reports this case :

AN assignation made by a woman called Gichen to Paul Hay and Davidson, of some money owing to her; and, in the assignation, she interdicts herself to the same two assignees; this interdiction was reduced, and the woman loosed, upon this reason, because it was against equity and reason, that the two assignees should have taken their cedent interdicted to them, there being no preceding just cause which could produce that effect, or for the which the woman ought, after that sort, to interdict herself to them, who acquiring the foresaid assignation, who ought not to have inserted also an interdiction in the body of that same writ, which are of so far different natures, and not compatible to subsist together, she being a woman, who, trusting to them, subscribed the writs, knowing and supposing no other thing to be insert but the assignation, and there never being of before, or then, any treaty of interdiction, and she never receiving any good deed for the same, nor no cognition, or trial taken before any judge, that she was a person that needed interdictors, which ought to have preceded; whereas she was and is *rei suæ satis provida*, and so the same being *contra bonos mores* to bind her after that manner, who ought to be loosed;—THE LORDS found the reason relevant, and therefore reduced; and that it needed no probation, that she was *rei suæ provida*, seeing the contrary was not alleged.

Act. *M'Gill.*

Alt. *Absent.*

Clerk, *Scot.*

Durie, p. 86.

1666. July 25.

WILKIE *against* ———.

No 37.

SIR JOHN WILKIE of Foulden having intented a reduction of a voluntary interdiction, made by him to some of his friends,

THE LORDS appointed some of their number to confer with him; and upon their report, that he was rational and intelligent, and for any thing appeared by

his discourse and deportment, *rei suæ providus*; the LORDS reduced in absence, there being no compearance or opposition for the interdictors.

No 37.

Fol. Dic. v. 1. p. 481. Dirleton, No 29. p. 13.

1698. February 10.

HARY HUNTER of Kirkton *against* JOHN HUNTER of Forrester-saltcoats.

No 38.

In judging of an interdiction, the court ordered a proof *hinc inde*, and appointed the interdicted person to appear before them.

MERSINGTON reported Hary Hunter of Kirkton against John Hunter of Forrester-saltcoats his brother, for the reduction of an interdiction, whereby he had bound himself up to act solely by his advice, in respect of his lavish prodigality. The reason of reduction was, he had been wheedled to it by surprise, and when in drink, without any previous cognition or trial of his deeds of levity; and the narrative of the interdiction bearing an acknowledgement thereof, is not sufficient, as was found 20th December 1622, Campbell *contra* Glenurchie, No 35. p. 7158.; and the 4th December 1623, Gichen *contra* Hay, No 36. 7160.; where the narrative was not found probative, unless it had proceeded *cum causæ cognitione*, in regard they offered to prove they were *rei sui satis providi*. *Answered*, He had given a gratuitous discharge of his tocher, and dispooned away the seat of the church, and was unwilling to descend to other particulars that would convince the Lords there was too much ground for the interdiction.—THE LORDS considered, as the narrative of his levity was not to be wholly trusted, so neither was it to be totally discredited; but ordained the defender, before answer, to condescend and prove such acts of levity as he could, either prior to the interdiction, or subsequent; and the pursuer to elide the same, and prove his frugality and provident administration of his own affairs; and declared, at the advising, they would cause sist the young man before them and try his behaviour; though prodigals may discourse as pertinently as other men.

Fol. Dic. v. 1. p. 481. Fountainhall, v. 1. p. 822.

1699. June 23. ALEXANDER GORDON *against* SIR JAMES DICK.

No 39.

WHITELAW reported Alexander Gordon and Sir James Dick of Priestfield. The said Alexander being of a facile nature, did, a little after his majority, interdict himself to Sir James, his uncle, who had likewise been his curator, and which was duly published. Alexander being now married to Dirleton's sister, and they desiring he might have the administration of his fortune, by their advice, compears in a process of mails and duties against some of his tenants pursued by Sir James, and craves to be preferred as standing infeft in the lands. *Answered*, The rents must not be paid to you, because you stand interdicted to

A voluntary interdiction made *sine causæ cognitione*, was found reducible at the instance of the interdicted person, unless, in fortification of it, the inter-