No 48.

upon the estate, against whom the term was circumduced for not producing his interest in the decreet of ranking, raised reduction thereof against Sir William Hope, the purchaser, and the ranked creditors, and insisted for production of the decreet.

Alleged for the defenders; That decreet being a writ *in publica custodia*, they cannot be obliged to produce it in a reduction, but the pursuer must extract and produce it himself.

Answered for the pursuer; The decreet of ranking being the common interest of all the creditors, and he being a creditor, it would be out of measure hard to exclude him from the use thereof; especially seeing he is willing to pay a proportional part of the charges of extracting, conform to his interest, and to extract it by himself, would more than sink his claim, which is less than the expense of extracting; 2*do*, The reservation of reduction as accords, in the decreet, implies, that he should have access to make his rights effectual.

Replied for the defenders: Whatever the ranked creditors might have to say for their being indulged the use of the common decreet, the pursuer, who, by his own fault, is excluded, can have no pretence to it, especially for such an end as he wants it for, viz. to overturn it; 2*do*, The reservation of reduction, as accords, is only in the common method of law, which obligeth the pursuer to produce writs called for that are *in publica custodia*.

THE LORDS found, That the pursuer, if he insists in his reduction, must satisfy the production himself.

Fol. Dic. v. 2. *p* 326. *Forbes, MS. p.* 13. & 14.

1717. *January* 24. MUIR *against* MILLER.

No 49.
In a reduction, the defender must produce his own extracts; and the pursuer is not put to the expense of taking out new extracts.

IN a single reduction, at Muir's instance against Millar, the pursuer having craved certification *contra non producta*, the defender gave in a condescendence of the dates of the registration of the writs called for in the Books of Council and Session: yet the pursuer insisted for certification, and *alleged*, That the defender ought to produce the extracts; because albeit a condescendence be received in improbations, the reason is, because extracts cannot satisfy the production; and the pursuer, being certified of the dates of the registration, may apply for transmitting the principals for satisfying the production; but, in a simple reduction, extracts being sufficient, it lies upon the defender to produce the same.

It was *answered* for the defender; That reductions are always libelled in improbations, and generally the pursuer libels falsely only to force production, when nothing is intended but only to insist in the reduction; and, therefore, the pursuers of improbation commonly desire no more but the production of extracts; yet there is never more required of a defender in an improbation,

but to condescend on the registration, and the burden of extracting them lies upon the pursuer. No 49.

It was *replied*, That it is unreasonable to put the pursuer to the expense of extracting the writs called for, when they are in the defender's hand, which he can produce without charge or trouble; and it is not the present question, What the Lords might find in an improbation? but the pursuer insists, that the defender may produce the writs called for on oath, and submits to the Lords who shall be at the charge, if the defenders have them not.

"The Lords found that the defender ought to exhibit the writs called for on oath, if they be or were in his hand since the citation; otherwise find, that the charge of extracting them lies on the pursuer."

Fol. Dic. v. 2. p. 326. Dalrymple, No 166. p. 231.

1779. *July* 1. James Scott *against* John Bruce-Stewart.

James Scott of Scalloway brought a process of reduction and declarator against John Bruce-Stewart of Symbister. The libel set forth, that the lands of Blosta and others in Zeatland, now in the possession of the defender, antiently belonged in property to the Sinclairs of Scalloway, and were by that family wadsetted, in 1667 and 1668, to Stewart of Biggton, from whom the defender derives his right.—That the pursuer was vested in the right of reversion which was in his authors, the Sinclairs of Scalloway. On these grounds, the action concludes, that the lands shall be declared redeemable, and the defender ordained to renounce and discharge his right over them, on receiving the money for which the lands were wadsetted.

No 50.
In reduction of an infeftment of lands, on the ground that the sasine had not been taken on the lands, found, that the production of an absolute disposition with sasine, followed by possession for forty years, afford sufficient title to exclude.

In this action, the defender produced an absolute disposition in 1706, by Charles Stewart of Biggton to his son John Laurence Stewart, of the lands in question, with sasine upon it in 1709. The defender *contended*, That these titles, with possession since that time, were sufficient to exclude the titles which the pursuer founded on, and to establish an absolute right to him in the lands by positive prescription.

Objected by the pursuer to the infeftment 1709, That it was not taken on any part of the grounds in quesion, but at the manor-place of Biggton, without other authority than a clause of dispensation in the disposition 1706, flowing from Charles Stewart, the granter of that deed.

No subject superior can create an union of lands lying naturally discontiguous, to the effect of making a sasine taken upon one part of them good for the whole. It is a branch of the royal prerogative. This was found, Aitken against Grinislaw, January 26. 1622, *voce* Union. It still continues to be the law, although, if union is once established by the Crown in favour of a vassal, it may, by that vassal, be communicated to his disponee; Stair, B. 2.