

REDEMPTION.

13443

pursues his declarator, that will not sustain his order, at the using whereof he not having produced the reversion, the order is null.

No 6.

*Fol. Dic. v. 2. p. 323. Haddington, MS. No 1746.*

1613. July 13. CRICHTON of CLUNIE against the LAIRD of BANDOUN.

In an action of reduction, pursued by Mr Robert Crichton of Clunie *contra* the Laird of Bandoun, it was opposed against the decret of removing, that Clunie could not warn notwithstanding, because he was denuded in favour of \_\_\_\_\_ who, the time of the warning, stood heritably infest to him. To the which it was *answered*, That the act of Parliament speaks only that warning shall be made at any term after the redemption, *idque* where there is a lawful order used, so the warning cannot be used at the same term; and farther, the act finds, that after the declarator the same may be drawn back, so that Clunie may either allege that the lands were renounced, or declared redeemed, and that he was infest upon the redemption. THE LORDS, for the most part, were of this opinion, that the warning might be made at the same term at which the redemption was used; but they would not find *pro* or *contra*, only they found the reply noways relevant, except Clunie would say that he was re-infest. *Item*, It was alleged thereafter, that \_\_\_\_\_ had renounced in favour of Peter Hay, who was infest, holding of the King. THE LORDS repelled the allegiance, as of before, because Clunie was never released, and so could not make a warning.

No 7.  
Might warn-  
ing be given  
at the same  
term at which  
the order of  
redemption  
was used?

*Kerse, MS. fol. 83.*

1615. January 27. Lord SANQUHAR and SEATON against JAMES CRICHTON.

In an action of redemption, pursued by William Lord Sanquhar, and Mr Alexander Seaton, *contra* James Crichton of Craw, the LORDS found that the condition of reversion behoved to be fulfilled *in forma specifica*, and could not be fulfilled by equipollents, *see* No 11.

No 8.

*Kerse, MS. fol. 83.*

1616. February 8. LESLIE against LESLIE.

In an action pursued by James Leslie of that Ilk *contra* George Leslie of Chapelton, for redemption of certain lands, wadset by himself, the LORDS sus-

No 9.

- No 9. tained the reversion contained in the contract of wadset, being dated *in anno* 1608, albeit it was not registrated in the secretary's register.

*Kerse, MS. fol. 83.*

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- No 10. 1616. *July 25.* Earl of ERROL *against* TENANTS OF TANORLIE.

IN an action of removing, pursued at the instance of Francis Earl of Errol *contra* the Tenants of Tanorlie, the LORDS found, that the declarator of redemption, obtained by the Earl of Errol *contra* Elshmouth, was sufficient to denude Elshmouth; albeit there was neither decret nor sasine following thereupon, the wadset being holden of our Sovereign and confirmed; and found that after the declarator of redemption, the comprising led by Philorth against Elshmouth, with the infestment following thereupon, holden of the King, with ten years possession, was noways relevant to defend in a removing.

*Kerse, MS. fol. 84.*

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- No 11. 1619. *February 3.* JOHN BRUCE *against* BUCKIE.

IN orders of redemption, found that *spificica forma* was not necessary to be used in offering or consigning of the money, in respect it was consigned in a responsible man's hands, and that the party was content to make it forthcoming *cum omni causa*.

1622. *November 19.*—IN redemptions, found that the same must be restricted to the wadset which is redeemed, and this received after litiscontestation.

*Item*, In the same cause of redemption, found that the principal sum ought to have been consigned with the annualrent at L. 10 of the L. 100 since the order.

*Kerse, MS. fol. 85.*

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- No 12. 1620. *February 29.* Laird CARNOUSSIES *against* AGNES REID.

THE LORDS sustained a reversion, albeit not marked on the back, because the extract was produced; and the extract was found to be of another body, written by another man, and yet the LORDS sustained the reversion.

1620. *March 7.*—THE LORDS found the reversion could not prejudice the relict, who was infest upon the contract of marriage *hoc attento*, that the