

No 32. without calling the relict, Mr Hugh's wife, and the heir of the other daughter.

The said Rachel did also insist against Mr Hugh in an exhibition *ad deliberandum*, wherein the LORDS ordained the defender to depone upon all writs granted in favour of the defunct, or granted by him in favour of his wife, children, or other persons in his family, or in favour of any other, 'if they were retired and lying by the defunct the time of his decease,' because then they were his writs, and were equivalent to renunciations or discharges of the retired rights; but would not sustain the exhibition for writs made to strangers, and assigned to the defender, who is an apparent co-heir, upon presumption that they might have been retired by the defunct, unless it were proven that they were truly retired.

*Fol. Dic. v. 1. p. 284. Stair, v. 2. p. 389.*

1683. *January.* JEAN BUCHANAN *against* The MARQUIS of MONTROSE.

No 33.

MAJOR GRANT having got from the Laird of Buchanan a disposition of lands redeemable by the granter's heirs, and the charter-chest delivered to him, he disposed his right to the Marquis of Montrose, against whom Buchanan's daughter pursued an exhibition *ad deliberandum*.

*Alleged* for the defender, That the pursuer could have no inspection of papers but such as contained clauses in her favour, or were in the defunct's possession at his death, which the charter-chest was not.

THE LORDS, in respect that Grant's right was redeemable, found the charter-chest was the common evidence both for the right to Grant, and the reversion in favour of the pursuer; and therefore decerned.

*Harcarse, (EXHIBITION.) No 486. p. 133.*

1705. *November 20.* BUCHANAN *against* MARQUIS of MONTROSE.

No 34.

Exhibition found relevant of all writs granted by the defunct to persons in his family at his death, upon which infestment had followed; but refused as to writs granted to strangers.

JANET BUCHANAN, daughter and apparent heir to John Buchanan of that Ilk, and Henry Buchanan of Leny her husband, pursue the Marquis of Montrose and others, in an exhibition *ad deliberandum*, of all writs either granted by or to her predecessors, for inspection, that she may deliberate whether to enter heir or not.—*Alleged, imo*, You have no interest to pursue, because the whole tract of the infestments of the estate of Buchanan are all conceived in favour of the heirs male; and your father stood infest as heir male; so you being only heir female have no claim; *2do*, I cannot exhibit to you, because it is offered to be proven, that your father was totally and irredeemably denuded of the estate in favour of Major Grant, from whom the Marquis derives right; *3tio*, An exhibition *ad deliberandum* gives only right to call for a sight of the writs granted to