

## No 9.

A purchaser of lands charged the seller to purge infeftments of annualrent on these lands. The Lords found the infeftments holden base of the grantor, might be sufficiently extinguished by resigning *ad remanentiam* in the seller's hands, who was the superior, and registering the same; but *quoad* the confirmed ones, found, that the confirmation made them public, tho' the sasine did not specially relate to the charter or holding *a me*, but was indefinite.

1699. July 25.

OLIPHANT *against* LINDSAY.

OLIPHANT of Williamston having charged James Lindsay of Dowhill to purge sundry infeftments of annualrent on the lands of Kinloch sold to him, conform to a clause in his disposition; and Dowhill producing renunciations thereof; and it being *objected*, That they were null for want of the registration within 60 days, conform to the act 1617.—*Answered*, They contained procuratories of resignation *ad remanentiam*, and they yet resigning, it would perfect the right and secure the singular successor.—*Replied*, *imo*, The act 1669, anent registering resignations *ad remanentiam*, concerned only resignations of the property of lands, but not infeftments of annualrents; *2do*, Some of these infeftments are held base, and others of them confirmed. *Quoad* the *first*, The granter being denuded, they could not resign for consolidation in his hands, seeing he neither had property nor superiority; and as to those confirmed, the King became superior, and there was no way to extinguish them but by getting new renunciations from such of the creditors annualrenters as were alive, and by pursuing the heirs of those who were dead to renew them, and on their renouncing, to adjudge.—*Duplied*, As for the base infeftments, resigning in Dowhill's hands will make them accesse to Williamston, the purchaser; and for the confirmed ones, they are not public, seeing the precept bore the two holdings, either *a me* or *de me*, and the sasine not applying it specifically to any, but indefinitely to both, it only secures against recognition and forfeiture; and it were a vast expense to put them to denude the heirs of the deceased annualrenters.—THE LORDS found, as to the infeftments held base of the granter, they may be sufficiently extinguished by resigning *ad remanentiam* in Dowhill's hands, and registering the same; but *quoad* the confirmed ones, the LORDS found the confirmation made them public, though the sasine did not specially relate to the charter or holding *a me*, but was indefinite, as has oft been found, particularly 15th July 1680, Bishop of Aberdeen *contra* the Viscount of Kenmuir, No 6. p. 3011. But another point occurred to the Lords, whether a simple discharge or renunciation of an infeftment of annualrent, though not registrate, does not extinguish the said infeftment; seeing these annualrents can be paid and taken away by intromission with the rents of the lands, or by compensation; which point, as being new, the LORDS resolved to hear in their own presence.

*Fol. Dic. v. 1. p. 193. Fountainhall, v. 2. p. 64.*

## SECT. III.

Confirmation of the Radical Right, whether it Validates all the Branches.

1635. December 4.

L. CRAIGIVAR and his DONATAR *against* AIKENHEAD.

## No 10.

Confirmation of a charter, granted to a

THE Laird of Craigivar and his donatar craving declarator upon the liferent of Mr Adam Bothwell, of the lands of Glencorss, whereof Craigivar, as succeed-