

may purchase, whoever pursues the sale, and the purchaser gets a distinct right as the highest offerer; and any purchaser, before the regulations appointing rankings to precede sales, might acquire what rights he pleased upon his peril, and then pursue the other creditors for declaring the price exhausted, as was done in this case.

No 46.

*Duplied* for Sir John Inglis; He having produced the act in the former process, in order only to instruct the reason of reduction of the declarator against him, my Lord President could not be allowed to repeat a reduction of the said act instantly; but must awaken and transfer the former process, or else go in his reduction as accords *via ordinaria*, that Sir John may have the *inducia legales*; 2do, A decret of sale being but a judicial alienation for the behoof of creditors, it cannot prejudice them, or afford any new title to quarrel their rights; so that the President could only quarrel Sir John's right upon the interest of creditors conveyed to him, which were all in the field in the former process at old Cramond's instance.

THE LORDS repelled the dilatory defence proponed for Sir John Inglis; and found that my Lord President might repeat his reduction of the act of liti-contestation summarily, without awakening or transferring.

*Forbes, p. 232.*

1713. July 23. Captain ADAM BLAIR *against* JOHN BLAIR of Glasclune.

No 47.

CAPTAIN Adam Blair having, as infest in the estate of Glasclune upon a charter of adjudication, pursued a reduction and improbation of John Blair's rights and titles thereto; the LORDS found it competent to the defender to exclude the pursuer *personali objectione*, upon a renunciation of all right to the estate, and disposition by the pursuer's author in favours of the defender's predecessor, anterior to the bonds whereupon the pursuer's adjudication was led; these bonds being gratuitous; July 15. 1675, Alexander *contra* Lundies, No 64. p. 940; albeit the rights produced by the defender were only personal, not completed by infestment.

*Forbes, p. 708.*

1713. December 17.

DAVID AUCHINMOULIE of Drumeldrie *against* Sir WILLIAM HOPE of Balcomy and Others.

No 48.

Sir William Hope having obtained a decret of ranking of the creditors upon the estate of Balcomy, and brought it to a public roup, at which he was preferred as the highest offerer, and got the estate adjudged to him for the price to be paid to the respective creditors as preferred, Drumeldrie, a real creditor

Found in conformity to Learmonth *against* Preston's Creditors. No 45.