

obtain a preference for his wadset sum, in that case, the lands being sold, the purchaser may remove the wadsetter without using the order of redemption, which the wadstter dispenses with, by his betaking himself to a preference as creditor in the wadset money.

No 44.

Fol. Dic. v. 4. p. 207. Kilkerran.

* * * This case is No 298. p. 12160. *voce* PROCESS.

SECT. X.

Purchaser acquiring an interest not produced in the ranking.—Method of accounting for the price.—Division of the price.—At what time to be made ?

1739. *November 21.* CRAWFURD *against* HUNTER.

It has been adjudged, that though a decree of ranking be closed, yet when the scheme of division comes to be made out, an adjudger, for example, who had not appeared in the ranking, may appear and claim his share in the division, without being put to the necessity of reducing the ranking. But it was here found, that a purchaser, who, by decree of ranking, is decerned to pay to the creditors as they are, or shall be ranked, thereafter purchasing an adjudication which had not been produced in the ranking, could not be allowed, at making up the scheme of division, to found upon this adjudication for its share of the price, so as to hinder the creditors ranked from drawing their full share for which they were ranked ; reserving to him his action of repetition as accords.

No 45.
The purchaser acquiring an adjudication that had not been produced in the ranking, not allowed, at making up the scheme of division, to found upon it.

THE LORDS were not unanimous in this. Several of them thought, that as he might retrocess his constituent, who would be admitted, so might he be admitted to claim his share, at least to the extent of what he had paid for the debt, though not farther.

Fol. Dic. v. 4. p. 211. Kilkerran, (RANKING AND SALE.) No 1. p. 468.

1747. *June 30.*

THE TRUSTEES FOR MERCHISTON'S CREDITORS *against* MITCHELL of Pittedie.

CHARLES MITCHELL purchased at a judicial sale the lands of Pittedie, to be entered to at Whhitsunday 1726, and John Lowis of Merchiston being a considerable creditor thereon, he advanced to him several sums on his bills, con-

No 46.
A person being debtor in a sum bearing interest, which he was not obliged