

REGISTRATION.

13539

1623. July 29.

EARL MARISCHAL *against* KEITH.

IN an action of redemption betwixt the Earl Marischal, and his brother, John Keith, the LORDS found, That an assignation to an order of redemption, which was used by umquhile Earl Marischal, father to the Earl, now pursuer, conform to a reversion which was personally granted to himself, and to the which order so used by him before his decease, the Earl his son, pursuer, was made assignee by him, albeit the reversion was not granted to assignees, and upon the which order, the assignee thereto sought declarator, it was found, That this assignation needs not to be registered in the Clerk of Register's books, conform to the order prescribed anent other writs by the act of Parliament 1617. Under the which act, the LORDS found, That this assignation, or the like assignations, to orders of redemption, was not comprehended, and that the act extended not to the same.

No 6.

An assignation to an order of redemption need not be registered.

*Act. Nicolson.*

*Alt. Hope.*

*Clerk, Gibion.*

*Eol. Dic. v. 2. p. 330. Durie, p. 78.*

\* \* Haddington reports this case ::

THE Earl Marischal, as assignee constituted by his father to the order of redemption used against his son, John Keith, pursued a declarator. It was *accepted*, That the assignation was null, not being registered within 40 days in the secretary's register. THE LORDS repelled the allegiance, because the act of Parliament expresses not assignations to orders of redemption, and the grantor of the reversion cannot impugn the assignation made by the last Earl to the Earl his son.

*Haddington, MS. No. 2910.*

1624. November 18. WALLACE *against* WALKER.

THE LORDS sustained a registration of an obligation at the instance of the relict of the husband, after the husband's decease, being done by consent of procurators; but it was found, because the sum was small, viz. 100 merks, and the relict was a poor woman, and also because she was executrix confirmed to her husband, and the debt libelled confirmed in his testament.

No 7.

*Durie, p. 148.*