

## No 6.

now bears, and also proving by the messenger and witnesses, the truth of the act, viz that the knocks were given, as the same purports; and this was the rather done, because the LORDS found, that this reduction was pursued to the father's prejudice, whereas the defender used the gift to his father's sustentation.

Act. ———.

Aft. *Sandilands*.*Fol. Dic. v. 2. p. 213. Durie, p. 843.*

## No 7.

Premonition by a procurator sustained, though it did not bear that the procuratory was shown.

1662. January 18. VEITCH against BYEL of BASSINDEN.

MR JOHN VEITCH, as assignee by John Edgar of Wedderlie to a reversion, pursues declarator against Byel of Bassinden, the wadsetter, who *alleged*, Absolvitor, because the premonition is null, being by a procurator, and not bearing the procuratory produced, neither the pursuer's assignation to the reversion. The pursuer *answered*, *Non relevat*, unless it were alleged, that they had been demanded at that time, and had not been shewn; *2do*, If need be, he offers him to prove, by the defender's oath, that the procuratory was then shown. The defender *answered*, The procuratory is not yet produced, and the pursuer was obliged to have shown it then, albeit not called for.

THE LORDS sustained the order, the pursuer re-producing the procuratory, and proving by the defender's oath, that the procuratory was then shown.

*Fol. Dic. v. 2. p. 212. Stair, v. 1. p. 83.*

\* \* THE LORDS refused to sustain an order of redemption to be proved by witnesses, 12th January 1677, Jaffray against Wamphray, No 19. p. 3630 *voce* ESCHEAT; and No 16. p. 8340. *voce* LITIGIOUS.

1667. November 12.

DUKE and DUTCHESS of MONMOUTH against SCOT of CLERKINGTON.

## No 8.

Found, that requisition and such *actus legitimi* cannot be proved but by instruments perfected as to all necessary solemnities, at least the minutes of the same under the no-

REQUISITION being made by the Duke of Monmouth and his Lady to Sir Laurence Scot of Clerkington, for a sum of money, but the notary having deceased before his instrument of requisition was extended, and there being only a minute of the same unsubscribed, the said Duke and Dutchess pursued Clerkington for extending and making up the instrument; and craved, that Clerkington and the witnesses might be examined to that purpose; and that upon probation, that the requisition had been made conform to the said minute, an instrument under the clerk-register's hand should be equivalent to an instrument.