

THE LORDS admitted the exception relevant to the proof, notwithstanding the other parties contradiction; and the same was practised of before in a cause of redemption of land, movit betwixt the Laird of Polmeis and Mr Alexander Livingston of Dunipace.

*Fol. Dic. v. 1. p. 136. Sinclair, MS. p. 29.*

No 51.  
redeemed, was only liferenter by reservation, and his son the fiar was not called.

1586. *January.*

HOG against LAIRD OF WACHTOUNE.

THERE WAS one called Hog, that pursued the Laird of Wachtoune to hear and see ane yeird of land lawfully redeemed, the same being analzied and wadset by this Hog to the Laird's forbear. It was *answerit* that the pursuer ought to have wairnt another person called Mr Patrick Hepburn, to whom the lands were disposed in second alienation be the Laird's predecessors, and this Hepburn was in possession of the same, and so he that was possessor of the ground, ought precisely to have been wairnt. *Answerit*, According to the act of Parliament, Ja. III. cap. 27. that lands that are given under reversion and sold to another person, that the first seller should have recourse to the same lands sold be him under reversion, to whatever hands the said lands come, as against the first buyer; sua the defender would have inferrit, that be reason of this act, the second buyer and possessor of the land behoovit to have been wairnt. It was *answerit*, That the meaning of the act was otherways, that there needed no other to be wairnt but the first buyer, and who gave the reversion, *et non potest ille conditionem primæ alienationis deteriorem facere*. THE LORDS repellit the exception, and fand be interlocutor, that he to whom the reversion was given, needed not to wairn any other, but such as gave the reversion, and to whom the first alienation was made.

*Fol. Dic. v. 1. p. 136. Colvill, MS. p. 415.*

No 52.  
Found that a person to whom a reversion is given, need not warn the present possessor, but him only who granted the reversion, or his heirs.

1610. *November 22.*

LORD SANQUHAR against LAIRD OF CLUNIE.

MY Lord Sanquhar pursued the Laird of Clunie Creichton, as heir to his father, to hear and see certain lands, wadset by the Lord Sanquhar's father to Clunie's father, redeemed. Clunie *alleged*, that no process could be granted upon this order, because all parties having interest were not warned and summoned, especially Clunie's sister, who was infest in the lands, and confirmed by the King, and in possession. It was *answered*, that my Lord Sanquhar was not obliged to know her infestment, seeing it succeeded not from his father or himself, neither was it confirmed by any of them; and that it was sufficient to him to call the heir of the granter of the reversion, in respect of which answer the LORDS repelled the exception.

*Fol. Dic. v. 1. p. 136. Haddington, MS. No 2004.*

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No 53.  
Found in conformity with the above.