

No 8.

Certification being granted, but extract superseded till a day, and the defender dying *medio tempore*, the Lords refused to grant certification.

1629. *February 17.* E. of MARR *against* His VASSALS.

IN improbations, the LORDS will grant certification against a defender, and let incident run for another. *Item* if certification be granted, but the extracting superseded till a day, if *medio tempore* the defender die, the LORDS will not grant certification.

Fol. Dic. v. 1. p. 210. Kerse, MS. ff. 208.

1686. *January.* WILLIAM BURGH *against* SIR WILLIAM SHARP.

No 9.

A DECRET being stopt upon a bill given in by the defender, which was ordained to be seen and answered, and the defender having died before advising of bill and answers, the LORDS proceeded to advise then, and finding nothing alleged relevant to make any alteration of the terms of the decret, ordained the same to be extracted without transferring *passive*.

Fol. Dic. v. 1. p. 210. Harcarse, (DECREETS.) No 408. p. 109.

SECT. IV.

Where a Master or Tenant Die after Warning.

No 10.

A warning against a father who thereafter died, sustained as a ground of removing against the son, who was called in the removing, without necessity of using a new warning against the son.

1567. *February 20.* CRANSTON *against* BROWN.

ANENT the action pursued be Richard Cranston, fiar of the lands of Marveston, against James Brown, son and appearand heir of George Brown of Coalston, and other possessors of the said lands, it was *alleged* be the said pursuer, that the said defenders should remove frae the said lands, as they were lawfully warned therefrae, conform to the act of Parliament. It was *alleged* be the said possessors, That they sould not remove, notwithstanding the said warning, because the said James Brown was principal tenant to the said setter of the feu to the said pursuer, and they but sub-tenants to the said James, who deceased before the calling of the said matter, and sua the said sub-tenants should not be decerned to remove frae the said lands, while the said James's aires were called. It was *answered* be the pursuer, That the allegiance of the defender was not relevant, except they wald allege, that the said James had tacks or some other right of the said lands for terms to rin, and in possession thereof, be paying of mails and duties to the setter thereof to the said pursuer, before the setting of