

1566. December 5. LORD SYMINGTON *against* WEIR.

ANENT the action persewed be the Laird of Symington against Thomas Weir, for removing frae certain lands, it was *alleged* be the said defender, That the said lands were some tyme annalziet be Laird of Symington to the defender's predecessors, under reversion; whilk lands were redeemed be the persewar frae the defender; and the said persewar's predecessor, annalzier of the said lands, band and obliged him and his heirs, under form of instrument at the time of the alienation of the said lands, that whensoever the said lands should be redeemed, and the tacks contained in the reversion furth run, that the person that the lands are redeemed frae should be rentallit as tacksmen of the said lands for all the days of his life, for certain mail and duty yearly; as it is of verity that the said lands were redeemed frae the defender, and therefore, be virtue of the said obligation, he should bruik the said lands for all the days of his life, as said is, and therefore he ought not to remove.—It was *alleged* be the pursuer, That at the time of the redemption, the defender renuncit, quitclaimit, and over-gave all right, claim, or title of right whatsoever, that he had in and to the said lands, in favours of the said persewar, except seven years tack contained in the reversion, whilk was kept to the defender; and therefore, in respect of the renunciation, as said is, long after the date of the said obligation, the defender should remove frae the said lands.—It was *alleged* be the said defender, That he made the said renunciation, but allenary conform to the reversion, and renuncit not the said obligation in special, but ane general renunciation, making no mention of the said obligation and right he had thairthrow; whilk allegiance the LORDS fand relevant, and fand, That ane general renunciation takes not away the right of the person that has diverse special titles, without that all the special titles be renuncit in special, conform to the l. 47. § 1. *D. de pactis*; and therefore assoilziet the said defender frae the said warning, in respect of the obligation.

*Fol. Dic. v. 1. p. 342. Maitland, MS. p. 170.*

1607. February 25. L. CALDERWOOD *against* L. LEY.

THE Laird of Calderwood pursued the Laird of Ley for improbation of his infestment of Kincaidzewlaw.—He *excepted*, That by decreet-arbitral given betwixt them be the Lord Provost, Calderwood was decerned to ratify, and so could not improve.—It was *answered*, That the exception of ratification should not stay the production, whereby it might be known if the infestment used was conform to the ratification; in respect whereof, the LORDS repelled the exception against the production.

*Fol. Dic. v. 1. p. 343. Haddington, MS. No 1329.*

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No 17.

In a contract of wadset, it was agreed, that after redemption, the wadsetter should be life-rent tacksmen of the lands. He having, upon requisition, renounced and over-given in general, the Lords found, that this general renunciation did not extend to that clause.

No 18.