

REDEMPTION.

13449

make payment, so that it was uncertain to him where to pay the moneys, there being no place in the contract designed for payment; and that the instrument of requisition bore not, that the procurator shewed and delivered his procuratory to the notary, to the effect the notary might read the same to the party; for albeit that the instrument bore, that the notary read the same procuratory to the party, these words were eiked upon the margin of the instrument since the same was produced by the party, without any clause making mention of the reading of the procuratory, and whereby he alleged, that it could be sustained; and although the same might be received, as it is now mended, he alleged it was not sufficient, not purporting that the procuratory was delivered to him as notary, to be read by him, as ought to have been done; for the reading thereof by the notary himself, without the procurator's own direction, was not an act of his office, but was only proper to the procurator to have desired it, and upon his desire the notary ought to have done it, and to give instruments thereon; and it is not his office to be notary to his own deed; but in so far as he has the preceding warrant of the requirer; as in sasines, the notary reads the precept at the desire of the party, and the instrument makes mention thereof, and sicklike in other acts; in respect of all which conjoined, the requisition was not sustained.

No 21.

Act. *Hope vs Nicolson.*

Alt. *Aison vs Stuart.*

Clerk, *Scot.*

*Fol. Dic. v. 2. p. 322. Durie, p. 341.*

1628. February 8. STEWART against BAILLIES.

A WADSET being redeemed, and the party from whom the lands are redeemed refusing to resign, but only to renounce, is ordained to resign according to the orders of reversion, bearing to resign, renounce, quit, claim, and evergive.

No 22.

*Auchinleck, MS. p. 181.*

1628. March 15. LORD CATHCART against LAIRD of CARSS.

THE Lord Cathcart wadset some lands, which came thereafter into the hands of Carss Crawford. The said Lord uses order of redemption against the Laird of Carss, and pursues declarator of redemption. It is alleged by the defender, All parties having interest are not called, viz. the Laird of Carss's author. THE LORDS found it necessary that one be summoned to represent him who gave the

No 23.