

REDEMPTION.

13455

1630. March 10. GRIERSON against GORDON of Troquhen.

No 30.

In an order of redemption, the defender quarrelling the instrument of consignment, because it bore not, That the money was numbered and told before it was consigned, as all such instruments bear; and therefore *alleged*, That the order ought not to be sustained, seeing redemptions are *strictissimi juris*; the LORDS repelled the allegiance, because the instrument bore, That the redeemer made offer of all and whole that sum contained in the reversion, viz. and that he consigned the same; which words (of all and whole) the LORDS found supplied the not numeration, and for want of the other words, they would not cast the order.

Alt. *Belshā.*

Clerk, *Hag.*

*Durie, p. 503.*

\* \* Spottiswood reports this case :

In an order of redemption used by N. Grierson against John Gordon, the instrument bore, That Grierson comparing in the place appointed in the reversion, produced a bag, wherein was contained the whole sum of 400 merks (whereupon the lands were redeemable) and did really offer the same to Gordon; *alleged* against the order, that it was null, because it bore not that the money was told, which should have been done, all reversions being *stricti juris*. THE LORDS sustained the order, and found it not necessary to prove the real numeration by witnesses; though some of their number were of that opinion.

*Spottiswood, p. 265.*

\* \* A subsequent part of this case is reported by Auchinleck.

1630. January 21.—AFTER declarator of redemption, because the money was consigned in a gentleman's hands the time of redemption, and lying unuplifted by the consigner, as was *alleged*, by the space of ten years, the LORDS ordained the consigner to deliver to the defender the money; and upon his supplication, letters were granted to the consigner to charge the person in whose hands the money was consigned, to make payment of the money, with certification other letters of horning should be directed to denounce him; and in respect of the first letters being granted of good judgment, that likewise the other letters should be granted; but it was thought, by many of the Lords, hard to have granted the first letters, except the same had been pursued by way of action, seeing the consigner had no other ground of his first charge but the instrument of consignment, which could hardly bind the parties in whose hands

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the money was alleged to have been consigned, being but the assertion of a notary.

*Auchinleck, MS. p. 180.*

\*\*\* Durie's report of this part of the case is No 49. p. 10117. *voce* PERICULUM.

1630. July 9.

FISHER *against* BROWN.

THERE is no necessity to make premonition to any, but to the heritable possessor, without regard to what hands the land anailzied has gone.

*Fol. Dic. v. 2. p. 324. Spottiswood. Durie.*

\*\*\* This case is No 56. p. 2204. *voce* CITATION.

1630. December 30.

HUNTER *against* HARDIE.

No 31.  
In a declarator of redemption of a wadset, no personal right will operate against a singular successor to the wadsetter.

ONE Hunter being infest in the lands of Hags by L. of Spottiswood, which L. of Spottiswood had long before given an heritable infestment of his quarter of the said lands to Hardie, and Hardie at the same time having granted back to Spottiswood a reversion, making mention, that whereas he had that same day received heritable infestment from him, of his four merk land of Hags, (for so designed the reversion the lands, albeit his infestment designed the alienation, to be of his quarter of the lands of Hags,) yet he granted the four merk land to be redeemable, by payment of a sum, and a 15 years tack of the land after the redemption; according to which reversion, Thomas Hunter using the order, and pursuing redemption, and consigning a tack of the four merk land of Hags; the defender *alleged*, That this redemption could not extend but to a four merk land, and could not be effectual to redeem the whole quarter land, as the pursuer craved in his order and summons of redemption, but only for a merk land; seeing he was infest in a whole quarter, which consisted of a seven merk land and a half, and the reversion, which he gave back, was but only of a four merk land. Notwithstanding of the allegiance, the LORDS found, that the reversion extended to all which was contained in the charter; for albeit the charter was of the whole quarter, and the reversion designed only for the four merk land, yet being done all at one time, in one day, and before the same witnesses; and the reversion making mention, that for somuch as he had obtained then instantly an heritable charter, and right of the four merk land, there being no other charter, nor right but the *alleged*, wherein it was called a quarter, the LORDS found, That the reversion extended to all which was disposed, and so to the whole quarter. And whereas the tack consigned by the pursuer bore, a tack of the four merk lands, according to the words of the reversion, the LORDS found