

REDEMPTION.

1340.

judice; especially where thereby the defender has no prejudice, seeing also he compared at the term to which he was warned, and thereby cannot be excused by ignorance; which reply was repelled, and therefore the order was not sustained for redemption of the annual rent.

No 35.

Act. *Stuart & Lermontb.*

Alt. *Nicolson & Scot.*

Clerk, *Hay.*

*Fol. Dic. v. 2. p. 324. Durie p. 725.*

1635. February 21.

L. EARLSTON against L. GRIMMET.

In a redemption, the LORDS sustained the order of redemption, albeit the instrument of premonition made no mention that the procurator, who made the same, did show his procuratory and warrant to premonish, and also, albeit the instrument of consignation made no mention therein, neither of the production of the procuratory, nor yet of the production or shewing of the reversion, by virtue whereof the redemption was used, without which had been both produced, and also the instrument of premonition and consignation had made mention expressly, that the same were shown, as the defender alleged to be necessary in all orders of redemption, he alleged the order could not be sustained, but absolvitor ought to be granted therefrom; which allegiance was repelled and the order sustained; but declared, that they would not draw this hereafter in a preparative, in respect the pursuer had sustained great trouble in actions for recovery of the said reversion from the same defender.

No 36.

An order of redemption was sustained, although the instrument of premonition made no mention of the procuratory.

Act. *Mowat.*

Alt. *Nicolson.*

Clerk, *Gibson.*

*Fol. Dic. v. 2. p. 322. Durie, p. 757.*

1635. March 20.

Bishop of GLASGOW against MAULD.

In a declarator of redemption, pursued at the instance of the Bishop of Glasgow, against Robert Mauld, for a room in Doune, it was *alleged* by the defender, That David Earl of Crawford, to whom the reversion was first granted had discharged, at least past, from the said reversion, in so far as by his confirmation he had received the defender's father his vassal of the said lands, without any reservation of the said reversion, and so has prejudged himself, as superiors do when they confirm a charter made by the vassal to another person of a different holding from the first. To which it was *answered*, That the receiving a vassal in place of another, does not prejudice the superior of his right of reversion, except the same were discharged expressly. THE LORDS repelled the allegiance in respect of the reply.

No 37.

*Auchinleck, MS. p. 183.*

\* \* Durie's report of this case is No 74. p. 6516, *voce* IMPLIED DISCHARGE and RENUNCIATION.