

1622. July 23.

E. of DESMONT *against* HAY.

No 16.

Order of redemption in legal securities.

IN an action of redemption pursued by the E. of Desmont against Hay, for redeeming of certain lands comprised from the compriser, by virtue of the legal reversion, the LORDS found, that the order of the solemnity of this redemption should be kept sicklike as in other redemptions, which are used by virtue of reversions conventional betwixt the parties, (except concerning the time and space of the requisition and premonition, which in legal reversions require to be used only on six days), and therefore they found in this process the requisition made by virtue of the letters raised by deliverance of the LORDS, craving charges thereby to be directed against the party, to come and receive the money, whereupon the comprising was deduced, with the charge given by the messenger, and executed against him, conform to the letters, not to be a sufficient requisition, and found the order so used not to be sufficient, and therefore assoilzied from the order of redemption; seeing they found, that in orders of redemption of this nature, the requisition ought to be made by a procurator, having power from the party to require, and that instruments should be taken thereupon in the hands of a notary, and before witnesses, as in all other redemptions.

Act. *Belshes.*Alt. *Cunningham.*Clerk, *Gibson.*

Fol. Dic. v. 2. p. 321. Durie, p. 32.

* * * Haddington reports this case :

IN an action betwixt Preston of Whitehill and Hay, the LORDS found, that albeit premonition might be made to a compriser, upon few days warning to receive the money contained in the reversion legal, yet the premonition and remanent order of redemptiou behoved to be done in presence of a notary and witnesses, as in other ordinary redemptions.

Haddington, MS. No 2658.

1622. November 13.

L. BASS *against* WAUCHOPES.

No 17.

Necessary that the procuratory be shewn, at the time of requisition, altho' not asked for. But see *infra.*

L. BASS being obliged to Wauchopes in payment of some money, at any term against which he was required, and being required by one as procurator, and in name of Wauchopes, to whom the bond was given, and thereupon being charged to make payment, the LORDS suspended the charges, because the procurator, who required, at the time of making requisition, shewed not the party required the procuratory, whereby he had power to require; and therefore the LORDS would not sustain the requisition, albeit the creditor ratified the requisition.