

REDEMPTION.

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tion at the bar, and that also there was a procuratory produced, lawfully subscribed before the requisition making; yet because it was not shewn at the very time when requisition was made, it was not sustained; albeit it was not alleged, that the debtor, when he was required, desired to see the procuratory, but only because the requisition bore not that the requirer offered to shew his procuratory, or that he shewed the same.

No 17.

Act. *Hope et Nicolson.*

Alt. ———.

Fol. Dic. v. 2. p. 322. Durie, p. 34.

1623. November 26. LA. of DRUM against WISHART.

THE LORDS found consignation of the money lawful, being made in the hands of the consigner's servant; and notwithstanding it was opposed, that the money was used since the consignation, viz. lent to consign in favours of another, in respect the party consigner was responsible, and that they had done diligence to obtain declaration, and offered the money at the bar.

No 18.

Kerse, MS. fol. 84.

*** Haddington reports this case:

IN the reversion pursued by the Laird of Drum against the Heirs of Captain Wishart, he having consigned the money into the hands of a servant of his own, it was *alleged*, That the redemption could not be lawful, unless he paid annualrent for the money since the term of Whitsunday last; because, in effect, he had retained the money in his own hands, and made use of it; whilk was no otherwise qualified, but, at Martinmas last, he had lent a part of the same to a merchant to offer in a redemption, whilk he retired within half an hour, and had it ready at the bar to deliver to the party; and the consignation being made in his servant's hand, it was after the refusal of the Treasurer and Dean of Guild to receive it. In respect whereof, the LORDS sustained the order of redemption, and declared him free of any annualrent.

Haddington, MS. No 2932.

1625. July 2. DR. KINGAID against HALIBURTON.

FOUND, in redemptions of comprised lands, that the compriser's meddling with the farms and duties of the lands beyond the annualrent, *ad hunc effectum* to diminish the principal sum heritable, by way of reply, without declarator.

No 19.