

No 23. first reversion, and the present titular of the land, and no more persons, although the land, after the first wadsetting, had past *per multas manus*.

*Auchinleck, MS. p. 181.*

\* \* Durie's report of this case is No 54. p. 2204. *voce CITATION.*

1628. *March 20.*

L.A. LAURISTON *against* The LADY CRAIGMIS, Relict of the Laird of Merchiston.

No 24.

FOUND that a reversion, comprised by the L. Merchiston to himself and his heirs, pertains to his eldest son, notwithstanding he comprised the reversion of a wadset of the lands of the Seames made to him and his Lady in liferent, and to John Napier, their son, in fee, by Henry Kincaid, and that it was *objected*, that the comprising of the reversion in the person of him that was wadsetter, extinguished the reversion in his own person, and so extinguished it also in the person of his Lady, and John Napier her son.

*Kerse, MS. p. 84.*

1628. *June 26.* L. NEWARK *against* His SON.

No 25.  
Premonition  
and consig-  
nation made  
on a Sunday,  
sustained.

IN a redemption L. Newark against his son, the LORDS sustained the order of redemption, albeit it was quarrelled by the defender, as not orderly deduced, seeing he alleged, that the time of premonition, the reversion was not shown, nor read to the party premonished, which was repelled, and found not necessary, especially in this case, where the charter given to the defender's brother, of the lands desired to be redeemed from this defender, as apparent heir to him, was given under reversion, and so the reversion was *in corpore juris rei*, and needed not be shown and read to him; and also the order was sustained, albeit it was alleged, that the same being done upon a Sunday, upon which it was not lawful to execute any such civil acts, it ought therefore to be found null; which allegiance was repelled also, for they would not find the order null therefor, especially where the sum of the reversion was only a rose-noble, and so needed not to distract the parties over long a space in the numeration, and nevertheless thought it expedient, that such acts should not be done on Sunday again; likeas the consignation was made on Sunday, because the premonition was made to that day, the reversion providing that redemption might be made at any

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time, upon six days warning, and not restricting the order to be made before any term. See SUNDAY.

No 23.

Act. *Belsbes.*

Alt. ———.

Clerk, *Gibson.*

*Fol. Dic. v. 2. p. 323. Durie, p. 377.*

\* \* Spottiswood reports this case :

1628. *January 26.*—THE Laird of Newark having disposed certain lands to his son, William Maxwell, under reversion of a rose-noble, after William's death made premonition to Alexander, another of his sons, apparent heir to William, to come to such a place on such a day, conform to the reversion, to receive the rose-noble, and to see the lands out-quitted and redeemed. This being drawn before the Lords; *alleged, imo,* against the order, That in the premonition, it was not said that the reversion was made to Alexander, when he was premonished; *2do,* The day assigned to him to come and receive the sum was a Sunday, which was not a legal day for such a fact. THE LORDS sustained the order, notwithstanding of both the allegiances, because there was no necessity of the first; and for the last, the sum contained in the reversion was not great, which needeth much tending, being only a rose-noble.

*Spottiswood, (REDEMPTION.) p. 264.*

\* \* Auchinleck also reports this case :

1628. *June 26.*—It was *excepted* against a declarator of redemption, that the reversion was not produced (the time of the premonition); *2do,* The premonition being upon eight days, conform to the condition of the reversion, which eight days fell to be upon a Sunday, upon which it was not lawful to make any redemption. THE LORDS repelled both the allegiances.

1629. *January 16.*—THE Laird of Newark pursues a declarator of redemption against the apparent heir of his umquhile son, William Maxwell, to whom he had disposed certain lands under redemption. Certain of umquhile William's Creditors compeared to stay the declarator, and *alleged,* That the father had given a posterior infeftment to his umquhile son, of the said lands, irredeemable, which was relevant and equivalent to a discharge of the reversion. To which it was *answered,* That the pursuer sought only a declarator conform to the reversion of the first charter, without prejudice to the creditor, to make the advantage of the posterior infeftment, if any be. THE LORDS decerned the redemption of the infeftment, with the declarator aforesaid.

1629. *March 19.*—IN the same action of declarator of redemption, it was *alleged* by the Creditors, That Newark could not have a declarator of redemption, because they offered them to prove, that the reversion was discharged. It

No 25. was *replied*, That the defender's creditors ought to condescend in whose favours the same was discharged. THE LORDS found it relevant to allege that it was discharged simply.

1635. February 21.—A reversion is not needful to be produced the time of redemption, while the reversion is contained in a mutual contract, in the defender's hands.

*Auchinleck, MS. p. 181. 182. & 183.*

\* \* \* Kerse also reports this case :

1628. February 7.—FOUND that a procuratory for resignation, which infers a clause irritant of the timing of the reversion, might be read the time of the requisition, the place designed, and the party present to attend and verify at the place.

*Kerse, MS. p. 84.*

1629. March 20. E. BUCCLEUGH *against* YOUNG and KER.

No 26.  
No necessity  
to premonish  
the compriser  
of a wadset.

AN order of redemption being used against the heir of one who was infeft under reversion, and declarator sought thereupon the creditor of him from whom the redemption was used, having comprised his wadset right, and having charged the superior to receive him upon that comprising, which superior was user of the said order of redemption, being heritor of the lands, and to whom the reversion was granted ; it was found, that there was no necessity to have premonished the said compriser, by the said order of redemption, albeit he had charged upon the comprising, before the using of the said order ; and so that he comparing in this process for his interest, alleged that the pursuer being so charged, could not have miskenned the excipient ; which exception was repelled, and the order sustained, seeing the pursuer had suspended that charge, which stood undiscussed ; but ordained the excipient to propone against the order in the cause, what other defence he pleased, but would not cast the order for his not being warned.

*Act. Nicolson.*

*Alt. Cheap.*

*Clerk, Scott.*

*Fol. Dic. v. 2. p. 324. Durie, p. 439.*

\* \* \* Spottiswood's report of this case is No 55. p. 2204. *voce* CITATION.

\* \* \* See a case between the same parties, 25th March 1629, No 88. p.2631. *voce* COMPENSATION.