

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.