

REDEMPTION.

13483

Gray, *voce* WADSET; and 27th July 1665, Hamilton against Tenants, *IBIDEM*; yet Derric has a case, where a right was sustained, notwithstanding of a redemption, 5th March 1630, Campbell and Orr against Salmond, *See* APPENDIX, in the case of a gratuitous disposition to a daughter, redeemable on a 40 shilling piece.

No 60.

Fol. Dic. v. 2. p. 325. Fountainhall, v. 1. p. 808.

1702. December 17. OGILVIE against STORMONTS.

No 61.

CONSIGNATION the day after the term fixed in the heritable bond, found ineffectual, though the term fell upon a Sunday; for the Lords thought, that the consignation should rather be the day before than the day after.

An heritable bond being taken to a man in life-rent, and to his son in fee, containing a clause of reversion upon premonition, &c. and empowering not only the heir but the life-renter to require; an order of redemption and consignation of the money found null, because premonition was only made to the heir, requiring him to acquaint the life-renter.

Fol. Dic. v. 2. p. 324.

* * This case is No 28. p. 8264, *voce* LIFE-RENTER.

1711. November 13.

WILLIAM DOUGLAS of Dornock against WILLIAM CARRUTHERS of Nutholme.

No 62.

WILLIAM DOUGLAS of Dornock, who acquired the reversion of a wadset of the lands of Nutholme, granted by Maxwell of Castlebank to William Carruthers, raised a reduction and improbation of William Carruthers's right, and, while his title to the reversion was lying in the hands of William Carruthers's lawyers, given out to be seen in that process, used an order of redemption against Carruthers; and thereafter used a new order, wherein he produced his right to the reversion. When Dornock came to insist in a declarator of redemption, the defender *alleged*, That no declarator could proceed upon the first order, because Dornock was a singular successor to the reversion, and his title not produced either in the instrument of requisition or consignation.

An order of redemption, made by a singular successor to the reversion, without producing his title at the using of the order, not sustained, although the papers were at the time in the hands of the wadsetter's lawyers, in another process before the Lords.

Replied for the pursuer, *imo*, No law requires the user of an order of redemption to produce his title, which the wadsetter should not controvert, more than a tacksmen or vassal can controvert their superior or constituent's right; February 19. 1674, Lord Berthwick against Pringle, No 51. p. 13473.; for in