

---

 Whether ANNUALRENT be due by CONSIGNATARS?
 

---

1624. *January 31.*DOUGLAS *against* WEDDELL.

IN an action betwixt James Douglas and Weddell, and the Earl of Morton, The LORDS found, That a depositar, in whose hands money was consigned for redemption of land, was not holden to pay profit for any consigned money, albeit the party against whom the redemption was to be used, and to whose use the money was consigned, offered both at the time of the order and consignation, and also at the calling of this action, which was intended by him against the depositar and the party consigner, for his interest, for the delivery to him of the money, with the profit thereof, to renounce and give over the land, desired to be redeemed; and albeit also, that the reason libelled, for the which he craved the depositar to be decreed to pay profit, was, because he instantly, at the very time of the alleged consignation, gave back the money again to the party consigner, who had made use thereof continually synfine; neither whereof was respected to sustain the action against the depositar, for paying of profit; but he was assolizied therefrom.

A.C. *Hoppe & Oliphant.*Alt. *King.*Clerk, *Scot.**Durie, p. 103.*

No 98.

A consignatory of money for redemption of land, found not liable for annualrent on the sum.

1716. *July 20.*ALEXANDER BARKLAY *against* CARRUTHERS of Dormont.

THE Earl of Nithsdale having some years ago used an order of redemption of a wadset of some lands, and consigned the money in the hands of Alexander Barklay, then bailie of Dumfries, there happened thereafter a dispute betwixt Maxwell of Barncleugh and Carruthers of Dormont, touching the liferent of the money, &c.; which process is yet in dependence; but, in the mean time, Barklay infits in a multiple-pounding, in which both the contending parties comparred and concurred, and *alleged*, That Barklay, the consignatar, ought to pay annualrent for the sum consigned in his hand, in regard he had lent out the same upon interest, and that the money was depositate as a species, not as a fungible.

*Answered* for Mr Barklay: *imo*, That annualrent is only due *ex pacto, vel ex lege, vel ex mora*, neither of which can be pretended here; and this seems to be confirmed by the act of Parliament 1695, anent the price of bankrupts estates,

No 99.

Found as above; but the consignatory entitled to no indemnification for intermediate diminution of the value of money.