

REDEMPTION.

19479

1681. November 23. NASMITH against NASMITH.

No 56.

IN the action of reduction and declarator, pursued at the instance of Sir Michael Nasmith of Posso, against his son James Nasmith, the LORDS found an order of redemption of an apprising, against the said Sir Michael, whereto his son James had right, null, in regard the procurator had no warrant from Sir Michael, the time of using the order; and that the procurator, who compared for the compriser the time of the said order, took instruments that there was no procuratory produced; but this speciality was the reason of the decision,

Fol. Dic. v. 2. p. 322. P. Falconer, No 2. p. 1.

* * Stair's, Hargrave's, and Sir P. Home's reports of this case are No 58. p. 5316, and No 60. p. 5319. *voce* HEIR APPARENT.

1683. January, JOLLY against PATERSON.

IN the declarator of redemption of a wadset, at the instance of Mr George Jolly against Robert Paterson cordiner, the LORDS sustained an instrument of consignment, bearing the same to be done by virtue of a procuratory, albeit it did not bear the procuratory was produced, nor that the money was numbered and down-told; seeing it did bear that there was a bag of money produced, wherein, by ocular inspection, there was a sum equivalent to the sum contained in the wadset, which was sufficient.

No 57.

An instrument of consignment sustained, tho' it did not bear production of the procuratory, it not having been required.

Fol. Dic. v. 2. p. 223. Sir P. Home, MS. v. 1. No 336.

* * Fountainhall reports this case ::

March 13.—MR GEORGE JOLLY against Paterson, reported by Pitmedden. THE LORDS sustain the order of redemption, though the procuratory was not produced, seeing there was none present to require it, and the instrument of premonition bears to have proceeded on a procuratory; and though the instrument of consignment does only bear large sums to have been consigned; which needed not be enumerated, there being none to receive it; and large sums will also comprehend expenses; and though the instrument bore not the enumeration and down-telling of the money, but only that it was there in a bag.

November 30.—THE cause Robert Paterson cordiner in the Cannongate against Mr George Jolly, *et-e contra*, mentioned 13th March 1683, is reported by Pitmedden. Jolly pursues a reduction and count and reckoning against a wadsetter for his intromission more than paid his annualrent. *Alleged by Pa-*