

also into liferent, was forbidden, for the pursuer was directly, by the disposition made to the wife, prejudged anent the heritable succession; for a man might happen to marry four or five wives, and having power to dispose to every one of them a liferent or conjunct fee, the hope of the succession to the heir will be of little avail to abide the said deduction of all the liferents; and also of the practice of Scotland all interdictions are *stricti juris*, and done for good considerations and causes *et secundum constitutionem nostræ republicæ* for the safety of noblemen's houses *et ad conservandam familiam*; and the present interdiction was made into contemplation of the third person, who was the Laird of Cowdon, that he had disbursed great sums of tocher with his daughter, and so the same could on no manner of way be loosed or broken *nisi cum sua factura*. THE LORDS, after long reasoning and advising, pronounced by interlocutor, that the exception was relevant, and repelled the reason of the summons. THE LORDS were moved to do the same, because the defender having a terce of the lands, and being served thereunto, was content to renounce her terce for her conjunct fee. *Nonnulli dominorum in contraria, &c.* that in respect of the interdiction, she should have neither terce nor conjunct fee, having for their ground, that *interdictiones de jure nostro sunt stricti juris*, and ought not to have been broken.

*Fol. Dic. v. I. p. 479. Colvil, MS. p. 336.*

1607. February 7. EARL ATHOLE against ———

THE Earl of Athole being warded in the castle of Edinburgh, for not exhibiting John Dow M'Gilliecalloun, having presented diverse supplications to the Council for his liberty, for obeying such charge as was used against him in his Majesty's name, for his service, and quieting the country, the same was refused, unless he would find caution for his remaining within the town of Edinburgh, and for his obedience of the said charge. At last, having named my Lord Ochiltry and the Laird of Clunie, they consented upon condition, that the Lords, by their deliverance, would provide, that the Earl of Athole's own bond for their relief, should be sufficient, notwithstanding that he was interdicted, and his interdictor had not consented thereto; whereupon, they having given in their supplication to the Lords of Session, they considered, that as the Earl had necessity to obey the said charge, and though his own bond given to the King would have been sufficient without consent of his interdictors, so his bond for relief of his cautioners was sufficient without consent of his interdictors, seeing he could not obtain his liberty, nor enable himself to obey the King's charge without caution; and thereupon the Lords interponed their authority to these cautioners' relief by their deliverance fore-

No 20.

No 21.

Interdictors having refused consent improperly, the Court interponed their authority to supply the defect.

No 21. said, declaring the same to be as sufficient as if the said interdictors had consented.

*Fol. Dic. v. 1. p. 479. Haddington, MS. No 1296.*

1613. March 5. DOUGLAS *against* CRANSTON.

No 22.  
Interdicted persons cannot grant tacks, even to kindly tenants.

IN an action betwixt Mr Richard Douglas and John Ferguson for reduction of a tack *ex capite interdictionis*, the LORDS found the reduction competent to the said Mr Richard, who was assignee to the person interdicted, viz. the Laird of ———, and that he might be heard to reduce as well as the heir of the L. Thirlestane, in whose favour the interdiction was conceived.

In the same cause, the LORDS found, That the interdiction was sufficient to stay the Laird of ——— to give a tack, albeit it was *alleged*, that George Cranston, receiver of the tack, was kindly tenant,

*Item*, in the same cause, it was found, that the extract of the publication proved the reason, and the LORDS would not compel Mr Richard to produce the principal, notwithstanding that Cranston offered him to prove the inhibition.

*Fol. Dic. v. 1. p. 479. Kerse, MS. fol. 62.*

1624. July 29. L. COLLINGTON *against* FAW.

No 23.  
An interdicted person's bond to a tradesman for work, was sustained tho' granted without consent of his interdictors.

IN an action pursued by L. Collington and Mr Robert Foulis, persons to whom George Hume of Broxmouth was interdicted against one called Faw, for reduction of a bond of L. 120 given to the defender by the said George Hume, because it was made after the publication of the said interdiction, the LORDS assolzied the defender from the pursuit, and found that the reason of the preceding interdiction ought not to militate against bonds, of the nature and quality of the bond controverted, viz. where bonds are granted to craftsmen by persons interdicted for the price of their work, travels, or workmanship, or wages, as this bond was, which was granted to a mason who had wrought to the said George Hume in his craft of mason-work, who ought not to be defrauded of the price of his travels; but the LORDS ordained him to prove, that he really wrought in his craft to the pursuer, which being proved, the bond was found ought to be sustained. See PROOF.

Act. Foulis.

Alt. Belshes.

Clerk, Gibson.

*Fol. Dic. v. 1. p. 479. Durie, p. 142.*