

made his daughters' portions depend on the subsequent heir's consent. 3. The particular exception must derogate from the destination as well as other things; it not being usual that matches could be had, where tochers are under so strict destinations; besides, the daughter was in fee, and might dispose for such an onerous cause as marriage. The Lords found, that the contract ought not to alter the father's destination, failing bairns of his daughter's body; and the defenders craved the pursuers might find caution in that event.

*Page 52, No. 224.*

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1688. *July 14.* MRS EFFIE SCOT *against* DANIEL NICOLSON.

Mrs Effie Scot having transacted a debt contained in her father's bond, on which she was pursued as representing him, and thereafter discovered that the said bond was found among her father's papers after his death, blank in the creditor's name, she raised a declarator of extinction of the bond and transaction; seeing, by the civil law, transactions may be rescinded *super instrumentis falsis*. Answered, Though the bond had been taken out among the defunct's papers, that could not prejudice the defender, a creditor who had it for an onerous cause, and was not *doli particeps*; and transactions are the greatest security of the lieges. The Lords demurred to rescind the transaction; but, before answer, allowed probation as to the point of fact of taking out the blank bond, in order to relief against the uncle Mr James Scot, who was alleged to have taken out the same.

*Page 53, No. 225.*

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1688. *July 18.* LORD PANMURE *against* The VASSALS of ABERBROTHOCK.

IN a poiding of the ground for feu-duties, at the instance of the Earl of Panmure, as lord of erection, against the Vassals of Aberbrothock;—Alleged for the defenders, That this manner of execution is only competent to superiors; and, by the Act 10, Parl. 33, the superiorities of church-lands are annexed to the crown, and the feu-duties only are reserved to the lords of erection, till redeemed by the king; and the execution by horning and poiding, appointed in that Act, is not real execution *contra fundum*. Answered, As the feu-duties remain with the lords of erection as formerly, so the same execution is competent for these as before. 2. An assignee to feu-duties may poid the ground in his cedent's name; *multo magis* may the lords of erection, who are assignees by reservation, poid for theirs.

*Page 213, No. 755.*

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1688. *July 20.* The LADY HARDEN *against* CRAIGENTINNY.

SIR John Nisbet having, *in anno* 1686, disponed, to young Craigentenny, all