

band, though becoming bankrupt during his marriage, might provide his wife, being till then unprovided, in such a liferent as would have been suitable at the time of his marriage, though in prejudice of prior lawful creditors; however, they afterwards altered their opinion on that general point; but in respect of a great claim the Colonel had at the time of the disposition on the Sword-Blade Company, upon which he afterwards actually recovered L.25,000 sterling, (though no account could be given what became of it;) they found the provision rational, and not reducible on the act 1621.

No. 8.

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1740. *February 22.* Ross of Pitcalny *against* Ross of Ballnagowan.

No. 9.

IN order to reduce a disposition 30 years old granted by a man many years dead, and whereon possession has been had ever since, the matter was not admitted to probation without a special condescence on particular instances of the granter's weakness. The interlocutor was, that the qualifications of fraud and circumvention, and particularly of the facility and weakness of the granter condescended on, are not sufficient for allowing him a proof even before answer of the said qualifications, after so great a distance of time, and after the death of the granter, and of all the other parties concerned in the transactions now quarrelled.

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1740. *December 5.* COUPAR *against* DAVID GRANT.

No. 10.

A MINOR having granted bills to a taverner for tavern accounts contracted in riotous living while his father kept a family in town, and after these bills had been quarrelled by both father and son, the taverner taking a corroboration of them when the granter was just come of age, the Lords reduced the bond of corroboration as fraudulent. (See MINOR.)

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1742. *June 4.* BURDEN *against* WHITEFOORD of Dunduff.

No. 11.

FRAUD of the author found competent against the singular successor in personal rights, or in incomplete real rights of lands, even though that author had an infertment, since that infertment was null as flowing from a person

- No. 11. not infert;—and a decret of reduction against the author, though it was not sustained as *res judicata* against the successor, because he had been convened, and obtained a decret of absolvitor in that very process of reduction, (but founded on an error in fact;) yet the proof there led was found good evidence in this process, but prejudice to the defender to elide it.

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1744. June 26.

CREDITORS of AUCHINBRECK *against* The LADY AUCHINBRECK.

No. 12.

SIR JAMES CAMPBELL married his own servant, *i. e.* his childrens governess, and six months after the marriage provided her in a jointure of L.100 sterling, with a house and some lands, at which time, though he had an estate of L.10,000 scots per annum, yet his debts amounted to L.21,000 sterling, and there were infertments for L.86,000 scots, so that the year thereafter it was sequestrated. The Lady being infert in her jointure, a competition with the other creditors postponed arose, and the Lords restricted her jointure to L.50 sterling per annum, and sustained it to that extent.

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1744. November 14. SNODGRASS *against* CREDITORS of DAVID BEATT.

No. 13.

A DISPOSITION *omnium bonorum* to trustees for behoof of creditors, preferring them *pari passu*, whereof severals had not *parata executio*, yet not reducible at the instance of other creditors who had *parata executio*, but had used no diligence at all before the disposition, nor for a year thereafter.

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1744. November 30.

WILSON.

No. 14.

A DEED being reduced against an heir on the fraud of his predecessor, the heir found not liable in expenses of process, because he was *in bona fide*. *Vide* PERSONAL AND TRANSMISSIBLE.