

Drysdale's name was counterfeited, being added by a boy his son, and the tobaccos were sent from Glasgow to Elphinstone, and loaded on board for exportation, and arrested on ship-board by Anderson's creditors; and afterwards by agreement the arrestments were passed from, and new bills of lading taken in the creditors' names, the tobacco exported to Holland and sold, and account of sales sent, and the proceeds remitted to be divided amongst the creditors. Christie pursued reduction of the sale and payment of the net proceeds, and Fairholms and Company, the creditors to whom the price was remitted raised multiplepointing. The Lords preferred Christie and Company to the price. They thought Anderson's fraud a *vitium reale*, and that the property was not transferred; and the President distinguished betwixt the case of arresters and purchasers in way of commerce. (See DICT. No. 24. p. 4896.)

No. 20.

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1749. *February 22.*

AGNES STEWART of Phisgill, *against* Mrs CHRISTIAN HERON, Widow of CAPTAIN STEWART of Phisgill.

No. 21.

THOUGH in 1743 we reduced a tailzie made by John Stewart of Phisgill in 1719, as done *in fraudem tabularum* of his marriage-contract 1688, and our decree affirmed in Parliament, (as marked *voce* MUTUAL CONTRACT;) Captain Stewart, the heir for the time by the entail 1719, and who was infest and in possession of the estate, having by his marriage-contract provided his wife to a liferent of 900 merks out of that estate, and afterwards in implement of it, and for love and favour, infest her in a jointure of 1200 merks; the Captain being now dead, in a dispute betwixt Agnes Stewart, now of Phisgill, and the widow, we sustained the widow's infestment for 900 merks, but not for the additional 300 merks.—We adhered. (See DICT. No. 24. p. 1705.)

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1749. *November 10.*

HENRY ELLIOT in Flatt *against* WILLIAM ELLIOT of Kirklands.

No. 22.

A THIRD or FOURTH purchaser of lands, found not obliged in a reduction on the act 1621 to astruct the onerous cause of a disposition to their remote author 57 years ago, though it was granted by a father to his second son. *Vide* PRESCRIPTION.