now, is always understood to be a succession; that this is a plain restriction of the jointure, differing only in the form of words, and the reason of the difference is, that, as she had a locality, it would have been inconvenient to have broken the farm, so as to take from her the precise sum it was agreed she should give to the heir; and therefore, instead of that, leaving her locality entire, they laid her under a personal obligation. But this was the opinion of the President single; all the rest of the Lords were of the other opinion.

[See *Dict.* tit. *Personal and Transmissible*, p. 77, and two decisions there quoted, 16th November 1665, *Watt* against *Russel*, and 14th June 1667, *Boyd.*]

1756. *January* 28. PRIMROSE *against* PRIMROSE.

[*Fac. Coll.* No. 133.]

IN this case the President said, and it seemed to be the opinion of the Lords, that, since the Act of King William regulating the reduction of deeds on the head of deathbed, it was not necessary, in order to exclude the reduction, even where the maker of the deed died within the sixty days, to prove that he had been at kirk or market, although in sundry cases the Lords had found so; but it was sufficient to show, any way, that the defunct was not then ill of the disease of which he died.

1756. *February* 10. CHRISTIAN CUMING, Claimant upon the Forfeited Estate of Asleid.

[Kaimes, No. 101, 113; *Fac. Coll.* No. 185.]

THE Lords, in determining this claim, determined a point of law of some consequence, viz. That a father settling his estate upon his son, and infefting him therein, with powers reserved to himself to sell and dispone, burthen, and impignorate, without consent of his son,—the consequence of such settlement will be, that the father may exercise the powers reserved to him by a personal deed merely, as by a disposition to another, without infeftment, which happened to be the case here, and such deed will annul and irritate the fee in the son; so that, even if the son had sold the estate and infeft the purchaser, or granted real security to his creditors before his father's revocation, yet all such deeds by the son would fall to the ground, by virtue of the maxim, *resoluto jure dantis, resolvitur jus accipientis;* and this was said to be the case of all resolveable rights, in general, such as wadset rights, adjudications, &c.

Against this there was a decision quoted, observed by my Lord Kaimes,