

- No. 24. son's bond to liberate his father, unwarrantably detained, was found null. Yet Grotius, Lib. 2. De jure belli et pacis, Cap. 11. asserts, that he who pactions to pay a sum to liberate his friend from unjust bonds *tenetur, quia tu a paciscente coactus non es*. The Lords found Wiseman's intromission unwarrantable; and therefore reduced the bill given by Boddom to him, not only as extorted, but likewise in respect of the subsequent discharge and relaxation of the escheat by a quorum of the Commissioners of Justiciary; and assoilzied from the debt.

*Fountainhall, v. 2. p. 89.*

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1700. July 18. DUNDAS against HARDIE.

No. 25.

A Sheriff-depute having fined an heritor for divers absences from head-courts, and having summarily poinded the tenants for the amerciamment, the Lords thought that this procedure was precipitant, being without a previous decree of poinding; and without deciding whether these unlaws were *debita fundi*, they found the poinding illegal, and the bond granted to stop it null, and reponed the master and tenants to their defences.

*Fountainhall.*

\* \* This case is No. 16. p. 6860. *voce* INDUCIÆ LEGALES.

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1706. June 28. HAY against CUMMING.

No. 26.

A wife having subscribed consent to a disposition granted by her husband of a subject life-rented by her, the want of a judicial ratification was not sustained as a reason of reduction thereof, since neither force nor *justus metus* were pretended in the case.

Jean Hay being infeft by James Skeen, merchant in Aberdeen, her husband, in the life-rent of a house and some acres, her husband's affairs obliged him to dispoise the said lands, in 1666, to one Forbes, for 2000 merks, from whom Robert Cumming of Birnies now derives right; and in that disposition the said Jean is a consentor for any right of life-rent she had, but she never judicially ratified the same upon oath. After her husband's decease, she revokes her consent, and raises a reduction, on this ground, that, by this consent, she had denuded herself of all she had in the world, which was a lesion with a witness, and being a donation in favours of her husband, and for his conveniency, though made to a third party, it was revocable, *ne mutuo amore se spolient*, especially since it was never judicially ratified, law presuming it to be through importunity, and for fear *et ob reverentiam maritalem*, as was found, 9th January, 1623, Marshall, No. 7. p. 16482.; 4th February, 1623, Guild, No. 77. p. 6521.; and 19th June, 1629, Gray, (see APPENDIX); where wives were allowed to quarrel their renunciations, if not judicially ratified, because presumed illicit; and the later decisions go the same way, 17th July, 1677, Paterson *contra* Maclean, No. 97. p. 10284. Yea, further, on the 15th February, 1678, Gordon *contra* Maxwell, No. 353.