

acquiescence, where there was none; and he appealed to the writ, which, *ex facie*, condemned itself; and in the quotation on the back, 13 was manifestly converted to 30; and if it were true, then Reid had paid L. 100 more than he owed, this being joined to the other partial payments, which none will believe of one of Mr Reid's stamp. *Answered*, All this dust is merely the effect of malice and revenge; for Mr Reid having discovered Lawrie's accession to the forging a disposition by one Pringle, he out of pique has raised this clamour, though he knows he got no less money than the discharge bears, and acknowledged the same before the two witnesses he has adduced: And it is unaccountable insolence in him to defame Mr Reid, who has carried himself candidly in two employments, as Sheriff-clerk of Haddington, and Regality-clerk of Dalkeith; and his good name and reputation are more sacred than to be so rudely attacked.—THE LORDS did each of them take inspection of the discharge, one by one, and seemed convinced that 13 was made 30; and, therefore, found it improbable. And the question being started, If it was not at least good for the L. 13 Sterling? the LORDS found it could not prove for a sixpence, being vitiated; but he would get Lawrie's oath as to the payment of that L. 13 Sterling, and where papers are unduly touched, they were *in toto* null.

No 40.

*Fountainhall, v. 2. p. 751.*

1730. February.

ARROT against GAIRDEN.

IN a reduction upon the head of death-bed, a disposition was challenged as vitiated in date and place, and it was *argued*, That in a case of this nature, the date being *inter substantialia*, the presumption *juris et de jure* is, that the vitiation was done in order to avoid the challenge of death-bed. The defender offered to astruct the verity of the date by the instrumentary witnesses, which the LORDS sustained. In this case, the vitiation was of that nature, as scarce to admit of a suspicion of antedating. See APPENDIX.

No 41.

*Fol. Dic. v. 2. p. 214.*

1741. July 17.

BROWN against CRAWFORD.

IN a process against the heir of the granter of a holograph writ, he was found obliged, upon the construction of the act of Parliament 1669, to depone upon the verity of his predecessor's subscription; the words of the act being, 'except the pursuer offer to prove by the defender's oath,' &c. by which it was not meant that an heir's acknowledging, that, in his opinion, it was his father's subscription, was relevant; for that would be no better than the opinion of any other witness who might know the defunct's subscription *comparatione*, and

No 42.