

No 78.

which stood in the Earl's person, and might be transferred by any writ *inter vivos* shewing his intention so to do. *2do*, Brown the annualrenter's infestment was never clothed with possession, and therefore it seemed just to prefer Smith, a singular successor, who first perfected his right.

THE LORDS found, That Cardross's right of relief, containing a procuratory of resignation and assignation to the mails and duties, conveyed all rights personal as well as real that were in the Earl's person, for security and relief of the debts therein contained; and therefore found, that the Colonel's right being prior to Sir Robert Milne's right, is preferable.

Fol. Dic. v. 1. p. 183. Forbes, p. 455.

No 79.

1733. November 20. SINCLAIR *against* SINCLAIR.

A NAKED disposition of lands was found to denude the granter *funditus*, who had no more himself than a disposition with procuratory and precept, so that nothing remained with him thereafter to be carried by a legal or voluntary conveyance; upon which footing the disponent was preferred to a posterior appriser, whose apprising was led against the common author, though the appriser had gone on to complete his right by obtaining infestment upon the procuratory contained in his debtor's disposition. See APPENDIX.

Fol. Dic. v. 1. p. 183.

1737. June 22.

BELL of Blackwoodhouse *against* JOHN GARTSHORE, Merchant in Glasgow.

No 80.
A personal conveyance of a personal right to land, does not denude the granter, or bar a second conveyance; the first infestment in such a case being always preferable.

CHATTO having purchased an estate at a public sale, extracted his decree of sale; and, without infesting himself, he conveyed the same to Bell of Blackwoodhouse. Thereafter, John Gartshore, creditor to the said Chatto, adjudged from him the decree of sale with the lands; and being infest upon his adjudication, his was the first completed real right.

In a competition between them about the mails and duties, it was *pleaded* for Bell, That, by the conveyance to him, Chatto was *funditus* denuded of his personal right; and that nothing was left with Chatto to be carried by Gartshore's adjudication. And to show that this is law, the decision, Rule, No 77. p. 2844. was cited, with many of a later date, all combining to support a proposition that has governed our practice many years as an indisputable rule of law, viz. that a disposition to land without infestment, is transferred *funditus* from the disponent to the disponent, by a simple disposition, without other solemnity.

It was *pleaded* for Gartshore; That he stands infest in the subject, having followed out the whole solemnities of the law of Scotland, necessary to establish