

1737. *February 25.* CRAMOND *against* BAIN and HENRY.

No. 5.

A DISPOSITION *omnium bonorum* to a creditor in payment of his debt, though really within the value of his debt, reduced *ad effectum* to bring in the whole creditors *pari passu*, albeit they could not subsume in terms either of the act 1621 or 1696.

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1737. *June 21.*

CREDITORS of MAXWELL of Newlaw *against* GRISEL GRIERSON.

No. 6.

A DISPOSITION to an heir of provision, (the eldest son of a second marriage, who by the granter's contract of marriage was to succeed to the lands,) with a reserved power to the father to alter or burden, is not reducible on the act 1621; and therefore a liferent infestment given by that son to his wife preferred to the father's creditors. *Vide* Lord Torphichen's Case, No. 1. *supra*.

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1737. *June 29.* CREDITORS of ROSEBERRY *against* GEDDES.

No. 7.

ARRESTMENT is relevant to reduce a subsequent disposition to trustees for the behalf of creditors on the act 1621, *quoad* the subject arrested.

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1737. *November 8.*

COLONEL GAY, and other CREDITORS of COLONEL URQUHART, *against*  
His RELICT.

No. 8.

COLONEL URQUHART having in June 1720 purchased the lands of Arboll of 1300 merks rent by a minute of sale, which was afterwards cancelled, at least did not appear, he in December that year, after he was quite insolvent through the fall of the stocks, took the lands to his lady in liferent, (who had got no former provision,) and to his son in fee; and the creditors having raised reduction on the act 1621, the Lord Ordinary sustained the Lady's liferent as being a rational provision, she not being otherwise provided, but found that the son could have no preference on his right of fee in prejudice of lawful creditors; and the Lords at first simply adhered; and then it seemed to be the opinion of the majority, that a hus-

band, though becoming bankrupt during his marriage, might provide his wife, being till then unprovided, in such a liferent as would have been suitable at the time of his marriage, though in prejudice of prior lawful creditors; however, they afterwards altered their opinion on that general point; but in respect of a great claim the Colonel had at the time of the disposition on the Sword-Blade Company, upon which he afterwards actually recovered L.25,000 sterling, (though no account could be given what became of it;) they found the provision rational, and not reducible on the act 1621.

No. 8.

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1740. *February 22.* Ross of Pitcalny *against* Ross of Ballnagowan.

No. 9.

IN order to reduce a disposition 30 years old granted by a man many years dead, and whereon possession has been had ever since, the matter was not admitted to probation without a special condescence on particular instances of the granter's weakness. The interlocutor was, that the qualifications of fraud and circumvention, and particularly of the facility and weakness of the granter condescended on, are not sufficient for allowing him a proof even before answer of the said qualifications, after so great a distance of time, and after the death of the granter, and of all the other parties concerned in the transactions now quarrelled.

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1740. *December 5.* COUPAR *against* DAVID GRANT.

No. 10.

A MINOR having granted bills to a taverner for tavern accounts contracted in riotous living while his father kept a family in town, and after these bills had been quarrelled by both father and son, the taverner taking a corroboration of them when the granter was just come of age, the Lords reduced the bond of corroboration as fraudulent. (See MINOR.)

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1742. *June 4.* BURDEN *against* WHITEFOORD of Dunduff.

No. 11.

FRAUD of the author found competent against the singular successor in personal rights, or in incomplete real rights of lands, even though that author had an infertment, since that infertment was null as flowing from a person