

No 92.

and repeats her reason by way of duply, viz. If she was compelled by her husband, it was by just fear; because she offered to prove by witnesses, that he threatened her to consent, or else he should do her a mischief; and that he was a fierce man, and had many times beaten her, and shut her out of doors; and offered to prove by the notary and witnesses insert, that at the time of the subscription, she declared her unwillingness.

THE LORDS found the defence and duply relevant.

Fol. Dic. v. 2. p. 69. Stair, v. 1. p. 113.

1662. July 23.

LORD FRASER *against* PHILORTH.

No 93.

It being *pleaded*, That payment made by the debtor is not sufficient to extinguish an infestment upon an apprising *contra singularem successorem*; and that intromission with the mails and duties of the lands appraised has this effect by statute only, not by common law; this was repelled.

Fol. Dic. v. 2. p. 71. Stair.

*** This case is No 62. p. 938. *voce* BANKRUPT.

1667. December 18.

AUCHINLECK *against* WILLIAMSON.

No 94.

REDUCTION upon the head of fraud is good against gratuitous acquirers, tho' not partakers of the fraud.

Fol. Dic. v. 2. p. 69. Stair.

*** This case is No 243. p. 6033. *voce* HUSBAND and WIFE.

1672. July 16.

DUFF *against* FOWLER.

No 95.
A right granted by a son to his father, *contra fidem tabularum nuptialium*, cannot be challenged upon that head in the person of a singular successor, purchasing *bona fide* from the father.

DONALD FOWLER of Culnald, in his son's contract of marriage, provides him and his future spouse to certain lands for their entertainment, during the father's life; but takes a tack from the son of the same lands, for a tack-duty far within the worth, which he assigns to his brother, and he transfers the same to William Duff, who pursues the son for mails and duties. The son *alleged*, *imo*, That this tack not being granted to assignees, the pursuer as assignee could not make use thereof, because tacks are *stricti juris*. It was *answered*, That life-rent tacks by many decisions are excepted from that rule; and that they do extend to assignees, if they be not excluded, though they be not expressed.

THE LORDS repelled this defence, in respect of the reply.