

The Lords have found, at least inclined to find, deeds granted betwixt a contract and a marriage are not to be construed as revocable donations *inter virum et uxorem*, between *Home* and *Home*; and the reason of circumvention, *super astro amoris*, was debated, but not decided, between *Ranken* and *Reed*, in 1677-. And the Lords reduced bonds *contra pacta nuptialia*, not only in *Donald Fowler's* case, but likeways in the case of *Lockhart of Wicketshaw* against

where they were entered into by parties that were under the power of their parents living, without their consent. But if both parties were *sui juris*, and their parents dead, *quid impedit* but they may enter into new pactions? See *Arbuthnot* against *Knor*, 15th December 1660. Vol. I. Page 31.

1679. January 9. ISOBEL KINNAIRD against LYON.

IN an exhibition *ad deliberandum*, Isobel Kinnaird against Lyon,—ALLEGED,—Offers to prove the pursuer is a bastard, at least the person by whom the contingency of blood is derived is a bastard, at least was so holden and reputed, (which is sufficient *in re antiqua*;) and so she has no interest to crave exhibition, since she cannot be heir. This was sustained as relevant. *De probanda filiatione per indicia et conjecturas*,—see *Mascard. de Probat. v. Filius*.

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1679. January 10. ALEXANDER AUCHMOUTY against The EARL of DUMFERMLINE and his TENANTS.

MR Alexander Auchmouty pursues the Earl of Dumfermline and his Tenants. ALLEGED,—The process being raised in the last Earl's lifetime, it ought to be transferred against this Earl. The Lords, upon the report of Newbyth, found no necessity of transferring, because the pursuer was insisting against his own tenants; and Dumfermline's procurators had proponed an exception of payment; and now to allege that it ought to be transferred, was to propone a dilator after a peremptor, which is against all form: and his brother was only called *pro interesse*. See Dec. 1677, *Dumfermline*.

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1679. January 10. ANTONIA PIERONNIN and THOMAS WILSON, her Factor, against JANET GORDON, Relict of Morison of Pitfour.

ANTONIA Pieronnin, and Thomas Wilson her factor, (*vide* 8th Dec. 1677, p. 205,) having obtained a decret against Dame Janet Gordon, relict of Morison of Pitfour, as representing her husband upon the passive titles, being holden as confessed thereon; the Lords reponed her again to her oath, in a bill of suspension, and ordained her to depone anent the passive titles; and that her present husband's protestation against her deponing to his prejudice should not hinder the same.

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