

though with a resolute condition, in case of children. This plea was agreed and taken up before interlocutor.

*Page 19, No. 100.*

1682. *February.* The CREDITORS of the ESTATE of FRENDRAGHT *against* the VISCOUNT and BOGNY.

THE Viscount of Fren draught, in order to acquire from one Gregory an expired apprising of his predecessor's estate, and yet to evade the Act of Parliament about purchases made by apparent heirs, provided, in his contract of marriage with the Lady Rutherford, who had 20,000 merks of tocher heritably secured, that he should give her a jointure; and, by a separate writ, of the same date, renounced the tocher, and declared, that it should be employed on security for her and her children. The Lady and her friends, after the marriage, acquired Gregory's apprising in favours of a blank person, in which, after it had lain some months blank in the Viscount's custody, the name of Bogny, the Viscount's chamberlain, was filled up: who, by his back-bond, provided the lands to the Viscount and his lady in liferent, and to the bairns in the marriage in fee; which failing, to the Viscount's heirs and assignees. In a process against the present Viscount, (his father being dead,) for redeeming the apprising from him, upon payment of the sums truly paid for it;—the Lords found the conveyance fell under the Act of Parliament. *Vide* No. 341, [Marjoribanks' Creditors *against* Marjoribanks, February 1682.] *Page 25, No. 129.*

1682. *February.* MONTGOMERY *against* HAY.

A BOND, bearing to be payable to a husband and his wife, (without mention of conjunct fee or liferent,) and the fee to the heirs of the marriage, was found to import a liferent to the wife.

*Page 38, No. 172.*

1682. *February.* SIR PATRICK HEPBURN *against* MARY BRUCE.

DOUGAL Macpherson having taken a bond, whereon infetment followed, to himself in liferent, and his son in fee, with power to him, the father, to uplift and dispose of the money, without the son's consent,—which Dougal did afterwards discharge in favours of his son, who married, and died,—the son's relict, as creditor to her husband, to whom the father was liable by the warrandice in the discharge, having raised a process against the father, for declaring her husband's right to the bond, and inhibited him thereon; Dougal thereafter disposed the heritable bond to Sir John Falconer, for the value to be paid to Sir Patrick Hepburn, who, as creditor *ab ante* to the disponent, raised the reduction of the discharge upon the Act of Parliament, 1621; and the son's relict raised re-