

thought very hard, seeing in the case of the creditors of Fendraught against Morison of Bogny *, and in many other cases, the LORDS, for trying fraudulent conveyances, have allowed it, else fraud of apparent heirs should scarce ever be discovered.

No 126.

1681. July 14.—IN Gordonston's reduction against Sir George Monro, (26th February 1681,) a comprising being quarrelled as come in the person of the apparent heir, in so far as the apparent heir his wife's father had bought it in for the behoof of the apparent heir's children, and so on the 62d act, Parliament 1661, it ought to be redeemable from him within ten years of his acquisition, for the sums he gave. *Answered*, The act of Parliament mentioned only the apparent heir, and so could not be extended to his wife's father; *statuta* being *stricti juris*. THE LORDS inquired if the comprising was expired, and finding it was, 'they, before answer, ordained Sir George Monro to depone ' what sums he gave for this comprising on Rae's estate to his immediate author;' This they did, because there were many presumptions that it had been a comprising long ago satisfied and retired by the common debtor's means, and a blank assignation taken thereto, and Sir George his author's name filled up therein, for the common debtor, Lord Rae, his own behoof. But thereafter, on the 19th July, this cause being heard again, 'the LORDS found Sir George ' his acquisition of this comprising, or the transmission of it to the Master of ' Rae his son-in-law, or his children, fell not under the act 1661, nor was re- ' deemable, because he deponed it was a free donation.' Yet this was one of the onerous causes by which Sir George got his daughter elocate to the Master of Rae, and so it was not a mere donation.

Fountainball, v. 2. p. 123, 133, & 147.

1682. February.

A. against B.

No 127.

AN extract of a contract of marriage, registrate in the public register in *anno* 1633, sustained to satisfy the production in a reduction and improbation, though after search it could not be found in the register, and the warrants of these years were not lost; but marriage having followed, and so notour, the defender was not put to prove the tenor.

Harcarse, (IMPROBATION AND REDUCTION.) No 528. p. 146.

1686. January 20. BAILLIE and STEWART against DUNBAR and DOUGLAS.

THE case of Mathew Baillie, Littlegill's brother, and Archibald Stewart *contra* Mr Alexander Dunbar and Samuel Douglas, husband to the Lady Hisle-

No 128.

A donatar to an escheat on a horning at the instance of another man, is not bound to produce the principal.

* Examine General List of Names.