

1694. February 29. PAUL against DAVIDSON.

THE debate between Sir John Paul and Sir William Davidson's daughters is reported by Redford; and the LORDS preferred the daughters upon the transport or assignation they had from their father to the town of Edinburgh's bond, though he was a creditor, and it was not intimated; because the transport depended on the onerous cause of implementing to them their mother's contract of marriage; and Paul's debt was contracted long after that marriage, and after the transport; and he was in an opulent and flourishing condition when he made that assignation, and so made it not in defraud of creditors, especially of future creditors, such as Paul was; and thus there was no place here for the *actio pauliana revocatoria*; and Street and Mason's case in 1673, No 32. p. 4911. did not meet this; for though Mason disposed his lands to his son before contraction of the debts, yet it was reduced, because there was a current tract of correspondence between them prior to his son's fee, and his design appeared evidently to be fraudulent.

*Fol. Dic. v. 1. p. 335. Fountainball, v. 1. p. 277.*

1688. February 10.

THE CREDITORS OF WILLIAM ROBERTSON against HIS CHILDREN.

THE reduction pursued by the Creditors of William Robertson of his Children's bond of provision was reported by Harcarse, viz. that it was a latent deed, never known till he broke, and so presumed not to have been delivered. *2do*, It is disconform to the contract of marriage, which is in favours of heirs, and only payable after his decease; whereas this is to bairns, and adds 10,000 merks more, and is payable at their age of twenty-one, and so wants an onerous cause. *Answered*, They offered to prove its delivery; and that the creditors debts are all long posterior to it. THE LORDS decerned in the reduction of the bond, and preferred the creditors to the children. They cited for the creditors, 10th January 1668, Bothwell of Glencorse, *voce WRIT*; Pollock, No 31. p. 4909; 11th July 1673, Street, No 32. p. 4911.; 4th December 1673, Reid, No 33. p. 4923.

*Fol. Dic. v. 1. p. 135. Fountainball, v. 1. p. 497.*

1694. December 21.

CREDITORS OF CARLOURY and HALYARDS against LORD MERSINGTON, &c.

RANKIELER reported the Creditors of Carloury *contra* my Lord Mersington, Mr Thomas Skeen, and Hugh Brown, for reducing an infestment of relief

No 35.

An assignation by a father to his children, in implement of a contract of marriage, and while he was in good circumstances, found effectual; altho' not intimated, and challenged as in defraud of posterior creditors.

No 36.

A bond of provision to children, more favourable to them than stipulated by contract of marriage, reduced at the instance of posterior creditors.

No 37.

Heritable securities in relief granted to cautioners, were sustain-