

have done had his daughter's liferent or the childrens provisions been to be thereby affected. It was indeed said, that it might be a question, Whether such a deed would be effectual against the husband himself, should the marriage dissolve by the death of the wife without children? But as that was not the case at present, there was no occasion to give judgment upon it; mean time, with respect to that point, a distinction may seem not improper, that if it was an imposition by the father upon his son, who being once engaged in affection to the bride, would rather comply with any terms than be disappointed of the marriage, even the son might in that case reduce as he might on any other ground of concussion; but if the case should appear to be not a concussion upon the son, but which often happens, a fraudulent contrivance between father and son, to deceive the bride and her friends, the case might receive a different consideration.

N. B. There is a petition against this interlocutor not advised; but as it is only laid upon the point of fact, without controverting the relevancy, this is a judgment on the point of law.

*Fol. Dic. v. 2. p. 22. Kilkerran, (PACTUM ILLICITUM.) No 1. p. 361.*

1740. December 23.

LUNDIN against LAW.

FOUND, That the exception against a deed as *contra fidem tabularum nuptialium* was perpetual, and therefore competent even after the lapse of forty years, where the prescription of the claim itself had been interrupted by minority.

*Fol. Dic. v. 4. p. 30. Kilkerran, (PACTUM ILLICITUM.) No 2. p. 363.*

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S E C T. VII.

*Pactum super hæreditate viventis.*

1630. July 6.

AIKENHEAD against BOTHWELL.

THE LORDS found it not unlawful to Mr James Aikenhead to sell to his brother, Mr Adam Bothwell, all the gear that his wife should happen to fall by the decease of Adam Bothwell her father, notwithstanding of the civil law alleged *quod pactum sit illicitum de successione viventis*.

*Fol. Dic. v. 2. p. 23. Auchinleek, MS. p. 21.*

No 34.

No 35.

No 36.