bitorum for onerous causes, as the pursuer is, because that would make a great interruption in commerce. 2*do*, The minor being a merchant, and the bond granted in relation to trade and merchandise, he cannot be restored.

No 99. minority and lesion; the Lords found, that the qualification of circumvention was only personal.

Answered for the defender; Minority is *exceptio realis* competent to heirs against singular successors; for otherwise, the creditor would always assign, and so disappoint the benefit of restitution in the case of the cedent's insolvency. Nor is the argument from the favour of commerce of any weight, seeing assignees rest secure upon the cedent's warrandice; and the same objection might be made if the cedent had discharged the bond before assignation; which discharge would certainly meet the assignee. 2*do*, The defender was circumvened by the pursuer's (cedent) in the stating of their own accompts. 3*tio*, The bond was extorted by force, the pursuer's (cedent) having threatened to put the defender in the correction-house, unless he signed it.

Replied for the pursuer; That the personal qualification of circumvention used by the cedent cannot be obtruded against the pursuer, who is a singular successor for onerous causes. 2*do*, The reason of *metus*, as it is qualified, is not relevant: For as the cedent might have used legal execution against the defender, he might have threatened him with it. And though deeds done under the terror of legal diligence do not infer homologation, so as to cut off the granter from his defences against the debt, such securities are not null, nor infer *justum metum*; and consequently labour under no *vitium reale*, which can overtake singular successors for onerous causes.

THE LORDS found, That the qualification of circumvention was only personal; and also repelled the defence of *metus* as qualified, in so far as concerned the pursuer a singular successor; and the father, because the cedent was sufficiently solvent, against whom the defender might have recourse.

Fol. Dic. v. 2. p. 70. Harcarse, (MINORITY.) *No* 707. *p.* 199.

1697. *December* 18. LIVISTON *against* BURN and LIVISTON.

No 100. The Lords reduced a disposition done *in lecto*, as being *labes realis*, though the defender was a singular successor, ignorant of the circumstance.

IN the reduction of a disposition pursued by Michael Liviston of Bantaskin against Burn and Liviston, *ex capite lecti*; it was *alleged*, That the defender was not the immediate receiver of the disposition, but a singular successor for onerous causes, having purchased it from him to whom the same was made, and so was not bound to enquire whether it was *in lecto* or not; and so, though the deed might be quarrellable and reducible *quoad* the receiver, yet not against him, a third party, who knew nothing of its defects: And urged the parallel of the act of Parliament 1621, that singular successors obtaining rights from bankrupts for onerous causes, and not being *participes fraudis*, were only liable in the price. *Answered*, This was never contraverted but a right made on deathbed might be reduced, though it passed through twenty hands, because it was *labes realis*, like extortion *per vim et metum*; but the exception on the act of Parl. 1621 was personal. And the LORDS found it so in this case, and reduced

No 100. the disposition made *in lecto*, and consequently, the defender's right flowing therefrom by progress, though he was a singular successor, and knew nothing of its being done *in lecto*.

Fol. Dic. v. 2. *p.* 70. *Fountainhall, v.* 1, *p.* 803.

1698. *December* 14. COUNTESS of ROTHES *against* FRENCH.

No 101. IN a competition betwixt the Countess of Rothes and David French, creditors on the estate of Edmiston of Carden, the LORDS found a clause in a disposition, bearing, that it was given and accepted with the burden of a sum to be paid to another, is not merely personal, but real against any who succeed in that right; as also, found, that an apparent heir buying in a comprising on his predecessor's estate, it is not only redeemable from him within the ten years, in so far as it is not extinct by intromission, conform to the 62d act of Parliament 1661, but likewise the reversion operates against the apparent heir's creditors and singular successors, who have adjudged his right; for whom it was *alleged*, The act run only against the apparent heir himself; but the LORDS repelled this, and found it a real exception. They did not here determine *a quo tempore* the ten years began to run, whether from the date of the acquisition, or the infeftment or other deed, making the conveyance public, else it might be kept up latent till the ten years were run, though this was touched in the debate.

Fol. Dic. v. 2. *p.* 66. *Fountainhall, v.* 2. *p.* 25.

1728. *January* 25. GOURLIE *against* GOURLIE.

No 102. REDUCTION upon minority and lesion found not good against onerous singular successors. *See* APPENDIX.

Fol. Dic. v. 2. *p.* 70.

1744. *November* 8.

COUNTESS of CAITHNESS, and LADY DOROTHEA PRIMROSE, and the CREDITORS ADJUDGERS from the EARL of ROSEBERRIE, Competing.

No 103.
In what cases exceptions competent against the debtor are competent against the adjudger from him.

THE deceased Archibald Earl of Roseberrie disponed all his lands and other heritable subjects, excepting his entailed estate, as also his whole moveables, in favour of his four younger children, John, and the Ladies Mary, Margaret, and Dorothea, equally amongst them. But as the granter was by every body believed to have been upon death-bed at the date of this deed, and had also left great debts, the younger children transacted with their brother the now Earl of Roseberrie, renouncing the foresaid disposition, and accepting of a certain provision in full of all they could ask in and through their father's decease.