

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.*

No 101.

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

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 infestment 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.*

No 102.

1728. January 25. GOURLIE *against* GOURLIE.

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 disposed 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.