

House of Lords found the contract onerous as to the interim rents of L.450, and the Marquis liable for them. They affirmed the interlocutor, that onerous debts of Marquis James may affect the estate of Annandale, but found the Marquis had no relief against the executry or separate estate, neither as liable on the act 1695, nor on the last Marquis's infestment, since the last Marquis burdened expressly the heir with it.

No. 12.

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1739. December 19. JAMES RUSSEL against GORDON.

A FATHER having settled the terms of his son's marriage-articles, but forgot to provide for his younger children, though he was to give his son all his estate, wrote to his correspondent and to his son before the contract, that he behoved to secure them in L.20,000 Scots, but seemed afraid to make it known to the bride's friends, lest they should be startled, and therefore it was not told them; but the son having agreed, the contract was signed in terms of the first proposals, and some days after the son granted his bond to the younger children *nominatim*, payable after his father's death for such shares of the L.20,000 as the father should appoint to each, at least so much thereof as should not be paid by the father in his own life, or by what should be left or fell to them at his death; but some time after the father gave up this obligation to the son after one of the children had privately registrated it in the register of probative writs. The Lords found the transaction *contra fidem tabularum*, and therefore not effectual even against the son during the existence of the wife and children. *2dly*, That there was no *jus quæsitum* by it to the children, and that the father might give it up. *Vide* Hamilton against Hamilton, *voce* PROVISION TO HEIRS AND CHILDREN.

No. 13.

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1739. December 21.

CAPTAIN CHARLES and MARY CAMPBELL against ELIZABETH CAMPBELL.

THE Lords found that Colonel James Campbell being bound by his contract of marriage to secure 40,000 merks, and the whole conquest to himself and his spouse in conjunct-fee and liferent, and to the bairns of the marriage in fee, that each of the children are entitled to a share of the said special sum and conquest, and that the Colonel's taking his whole land-

No. 14.