

Marches of the Portionts of Burgh Tenements, as forders Court-
 Yards &c. may be heard and determined upon a Brief of Lining directed
 to the Magistrates of the Burgh of this Tenor: *Proposito Culivis &c. Salutaris*
Mandamus quatenus per duodecim de melioribus et pro dignioribus dicti
Burghi per quas rei Veritas melius sciri poterit Magna Sacramento inter
conveniente iuste et secundum leges Burgh' lineari faciatis tenementum
terre Johannis ~~et~~ A. jacenti in dicto Burgho ex parte boreali
via regia quidem inter Tenementum terre faculi B. ex parte orientali
ex una parte et Tenementum terre Davidis C. ex parte occidentali ex al-
tra parte; et sicut dictam Tenementum terre per dictas limitates lineari
erit, ita illud de cetero firmius faciatis observari. Tantum inde sectionem
pro vestro defectu amplius inde justam querimoniam non audiamus.
 Tenement within Burgh was reduced, because the Brief was not proclaimed
 upon 15 Days nor a Decree directed upon a Claim given in by the Pursu-
 er of the Brief against the special Parties interested in the Lining for su-
 -moning them thereto, nor no formal Order of Process observed, but only a
 -many Trial taken 13 Feb. 1629 Wright contra Stark. But there is rarely
 -occasion for such a Brief of Lining; Differences about the Limits of Burgh
 -Tenements being commonly decided by the Deon of the Burgh. And tho' Relief
 -Molestation is competent chiefly in rural Tenements, it may sometimes
 -take Place in the Portionts of Burgh Tenements, for regulating the
 -Marches ^{of} Clofes Courts or wast ground Stair Lib. 4. Tit. 27. §. 3.

Tit. 8.

Of Force and Fear.

Force is all unlawful Impressions which move any one against his
 Will, for fear of some great Evil, to give or do what he would not if free
 from such Impression. In treating whereof I shall first set forth what
 and what is not a just ground of Fear, and then explain the legal Rem-
 -edy and Redress competent to the Party intimidated.

Sect. 1.

What is, and what is not a just ground of Fear.

~~It is not every ground of Fear, that will be sufficient to annul a deed.~~
 The Civil Law doth not render as a sufficient ground of
 Force and Fear to annul Consent to a Deed, those Violences which can only
 influence weak and fearful Persons; but says that the Violence must be
 such as to strike a Terror capable of intimidating Persons of the
 greatest Courage, to do Things against their inclinations l. 5. l. 6.

quod met. caus. As the Danger of Life or Torment of the Body. l. c. de
 Transact. l. d. C. de resc. vend. But with us and in other Places it is now
 much in arbitrio Judicis to determine when there is a Motive of Fear suf-
 -ficient to infer Restitution, according to the Power Age Sex or Condition of
 Persons Menoch. de Arbitr. jud. Quasi. Lib. 2. Cap. 135. Gail 2. Obsen.
 93. n. 7. §. 9. Brower de jur. Connub. Lib. 1. Cap. 17. n. 6. 7. Jo. Voet
 Comment. ad ff. Lib. 4. Tit. 2. n. 11. Les Lois Civiles de Torn. i.
 Part. 3. Liv. 1. Tit. 10. Sect. 2. pr. Seeing all Persons have not
 the same Courage to resist Violence, and therefore bring, and many a
 -weak and fearful that they cannot stand out against the least Impres-
 -sion, we ought not to limit the Protection of the Laws, so as to restrain
 -only such Acts of Threatning and Violence, as are capable to overcome
 Persons of the greatest Courage and Intrepidity. But tis just also to pro-
 -tect the weakest and most fearful against all forcible Means and
 -Schemes of their Treachery. And there would be no tract in the Society of
 -Mankind, were not even the least Acts of Violence repress'd. The Law
 -does not allow private Persons to make Use of any Violence or Force
 -whatsoever. Not even to do themselves Justice l. 13. ff. quod met. caus.
 -And therefore much less will it permit them to use Violence in Order to
 -extort a Consent to an unjust Prodigion.

In determining what comes under the Denomination of just Fear,
 we consider the Power and Disposition of those to whom the Deeds are
 -granted. Thus the Sovereign's Command is generally considered as a ground
 -of just Fear. Mascard de Prob. l. 1. c. 1. n. 54 & 4. As are also
 -the Threats of Magistrates or other Persons in great Authority who are
 -apt from Power Inclination and Custom to perform what they threaten,
 -or to do and use their Authority contrary to Justice: Which may engage
 -any Person to give Consent to what they would have done purely out
 -of Fear of the Evil which they are capable of doing l. ult. C. de his
 -qui in metus caus. l. 3. §. 1. ff. quod met. caus. l. 23. §. 1. ff. eos.
 -Stair Lib. 1. Tit. 9. §. 8. Lib. 4. Tit. 40. §. 26. Thus Menaces from a great
 -Man were sustained to reduce upon Concession, a Disposition in his Fa-
 --vour without an adequate onerous Cause July 1600 L. & Lady Gray
 -contra E. Lauderdale. The lds were found relevant against a Bond
 -and Transaction of a Decree obtained at the Kings Instance against
 -the Master of the Mint, and assigned to the Lord Chancellor for the Time
 -13 January 1692 E. Lauderdale and L. Hatton contra E. Aberdeen.
 -For clearing what is a just ground of Fear, great Regard is also had
 -to the Condition of the granters of the Deeds quarrelled, and to the Qualities
 -of the Rights granted: That being understood a Reason of just Fear to a
 -weak Person, or to a Woman, that would not be allowed to one more re-
 --solute or in Favour of a Man; and Extortion being more easily sustained
 -in gratuitous and free Deeds and Obligations, than in those for onerous
 -Causes Stair Lib. 4. Tit. 40. §. 25. Lib. 1. Tit. 9. §. 8. It was found relevant to
 -reduce a Disposition containing a Procuratory of Resignation in Favour of