

of a Sheriff Deputy, that the Disposer a weak simple Person was apprehended without Order of Law, and detained two Days by the Receiver as a Prisoner in his House, and thereafter carried by his Officers and Servants secretly in the Night Time from Place to Place upon a Captivity, a Third Party's Instance, till he subscribed the Right for a Cause equivalent to the third of its Value, without Respects to a prior Marriage the same Effect wanting a Procuratory of Resignation so January 1677 Stewart contra Whitford and D. Hamilton. Albeit such a Violation of Force would not have been sustained to reduce the Deed of a Man of ordinary Resolution. Again we are to Judge whether a Thing is done out of just Fear by the Circumstances of the Place where it is as whether in a Town or in the Fields l. ult. pr. ff. quod met. caus. and of the Time when, as whether in Day Light, or under Cover of Night.

Where Deeds in Favour of Persons to whom reciprocal Fear due by the Granters, tend extremely to the Granters Prejudice, Concussion or Intimidating is presumed Mascard Concl. 1056. n. 15 & 28. Such as a Wifes Consent to the Alienation of her whole or part of her Estate 1623 Marshall contra Marshall Stair Lib. 5. Tit. 9. §. 8. Lib. 4. Tit. 9. §. 25. or consent to the Alienation of a Part of her Provision, where in such a Case the Force and Uses to keep her in awe, tho' no Menaces be proved, shall bind effectually, if not judicially ratified extra matrimonium. For all reciprocal Fear simply will not operate Reduction of a Thirds Deed in his Father. Arg. l. 22. junct. l. 25. ff. de rit. nupt. l. 14. C. de nupt. or Wifes in Favour of her Husband. Arg. l. ult. ff. si quis aliq. test. probat. C. de ed. jail. 2. Item. 117. n. 4. Yet where it passeth the ordinary Bound and is attended with Threats, it is a sufficient Ground of Reduction. Arg. l. 5. ff. quod res. sub. non. dat. Arg. l. 5. ff. de in et in arm. C. de literis. l. X. de Despons. impub. Brouer de jur. Connub. Cap. 17. n. 14. & 30. Jo. Voet Comm. ad ff. Lib. 4. Tit. 2. n. 11. Threats or the like Methods of Intimidation are presumed from a severe and unmerciful Dealing of an awful and imperious Father or Husband Mascard Concl. n. 17. Thus a Wifes Consent to her Husbands Contract and Infestation of Wasset, was found reducible upon this Ground, that before he had beaten menaced and expelled her out of his House; albeit she expressed no Dissatisfaction at the Subscription 27 June 1682 Casie contra Fleming. Quia durabat causa metus semel illat. durante matrimonio, she was understood to be still so overawed the Remembrance of the former Treatment she met with for her Refusal gratify her Husband in that Matter, as she durst not openly signify any Unwillingness. But a Wifes Consent to her Husbands Disposition of Lands wherein she stood interest, was not reducible at her Instance 24 Years after when clothed with another Husband, upon this Ground; that she by her first Husband several Hours in a Tavern, and a Promise of Money laid upon a Table which she was not allowed to uplift after signing

the Writ, and that the said Writ was not read to her: For the Lords thought it dangerous to annul a Disposition after so long Acquiescence by the Wife. 1 July 1700 Johnston contra Representatives of Napier. Altho' Concussion be more easily sustained in some Cases than in others; there are some Grounds of Fear that are universally sustained: Such as the Fear of Death or Bonds l. 7. §. 1. ff. quod met. caus. Stair Lib. 5. Tit. 9. §. 8. The Fear of Dangerous Strokes with Artful Weapons or his graceful Mutation of Members of the Body Stair Lib. 4. Tit. 40. §. 26. or continuing Persecution by Maltreatment, and restraining from the Conveniences and Necessaries of Life, as Drink Food ^{because that from} Clothing or the like; Fear of violating ones Chastity Stair Lib. 5. Tit. 9. §. 8. or being pursued for a Crime reaching Life Members or Estate. l. 23. §. 1. ff. quod met. caus. Stair Lib. 4. Tit. 40. §. 25. Altho' the Violence offered and the Menaces that are used do not go to that Extremity; as to put the Life in Danger, yet if other undoubted Means are used, such as the keeping one shut up uncausally imprisoning him till he grants what is demanded of him l. 22. ff. quod met. caus. l. 12. April 1543. Morten contra the Queen Stair Lib. 5. Tit. 7. §. 3. The exposing him to the Hazard of some Evil till he give a price or rent whose Lands were deposited upon or other Things, unless that the Thing or the Person to whom the Things deposited belong give him a Sum of Money or other Thing which he unjustly demands, whatever is consented to in this Manner will be annulled, and the Depository will be punished for his Treachery and for this Exaction according to the Circumstances See Louis Civiles &c. Tom. 5. Part 5. Liv. 5. Tit. 18. Sect. 2. Art. 3. Concussion is understood to take Place not only when a Deed is done to prevent an evil Design against the Granters, but also when it is done for the sake and Relief of those dear to him, as his Children l. 8. Scult. ff. quod met. caus. Arg. l. 5. §. 4. ff. de sicca. §. ult. Inst. de nax. act. or his Wife l. 5. §. 3. l. 18. §. penult. ff. de injur. or Parents under such Circumstances of Danger: Whose Sufferings are supposed to affect him sensibly. Thus it was found relevant to reduce a Bond granted by Sons for Relief of their Father that he the Father was then unwarrantably confined Prisoner to the Mountains and menaced with Death 8 Decemb. 1677. M. Kintoshes contra Spalding and Farquharson. Because the Tie of natural Obligation engaged them to interpose for their Fathers Enlargement from so miserable a Strait: Albeit a Stranger Cautioney for one granting Bond ex vi et metus, would stand engaged, tho' the Bond were reduced as to the principal Debtor. But it is not every Ground of Fear that will be sustained as a Reason to quarrel Mens Deeds is involuntary. Whatever is done in Obedience to the Authority of Justice, and to the Authority of a Judge within