

1548. March 16.

S. WILLIAM HAMILTON, the Quenis Grace's Donatour, *against* ———.

No 4.

The single avail may not be demanded from the heir, until he be entered, if he be minor, because he may decease before the ish of the ward.

GIF ane air of ward lands, being of les age, marie without licence of the King, or his uther superiours, na requisition or offer of ane agreeabill partie beand maid to him before his mariage, he may not be callit nor decernit to pay the single avail of his mariage, unto the time he be enterit air; because during the time of the ward, and of his minoritie, he may not enter, nor zit is he air of ony landis to his predecessour; and it may happen him to deceis unenterit before the ische of the ward, and swa gif he not beand enterit war compellit to pay the avail of his mariage, he decessand unmaryit, the King, or uther superiour, sould wrangouslie have the single avail of his mariage, and als the mariage of the immediat successour, quha sould happen to succede efter him to his predecessour, be quhais deceis the ward of the land, and the mariage of the air, came in the superiour's hands; and swa the superiour, be deceis of ane vassal, nicht have the avail and proffeit of twa airs mariage, howbeit they never succedit nor enterit to the land; quhilk is contrare to all law of this realme, and reason, considering the superior sould have bot the mariage of ane air of ward lands allanerlie.

*Fol. Dic. v. I. p. 568. Balfour, (MARRIAGE OF HEIRS.) No 16. p. 248.*

1568. July 1.

——— *against* CRICHTON.

No 5.

Found that he who refuses an offer of marriage, will not be allowed afterwards to accept of it.

It is no disparagement that the person offered has no estate, disparagement consisting only in blood, bodily defects, or inequality of age.

ANENT the action pursued by ——— against Martin Crichton of Cranston-riddel, as assignee to David, Cardinal of St Andrews, who was donatar to the said Martin's marriage, to the King; it was *alleged* by the said pursuer, That the said Martin should pay to him the single avail of his marriage; because the said pursuer had required the said Martin to marry a sufficient party offered to him in marriage. It was *alleged* by the said Martin, That the said party offered to him in marriage was a great disparage, because she was the daughter of a man of small heritage. It was *alleged* by the pursuer, That the disparage could not come in by lands or goods, but only in blood; and also it was *alleged* by the pursuer, That the woman offered to the said Martin was of as great blood, and greater than himself was; and albeit it were not, it is manifest in the law of the Majesty, *in legibus forestarum*, that this is no disparagement, but only *in villanis sive burgensibus*; which allegiance of the pursuer was admitted by the Lords. And thereafter, it was *alleged* by the defender, That he was yet unmarried, and was content to marry the woman offered to him by the said pursuer. To which it was *answered*, That the party offered to him was not obliged to tarry so long time unmarried; and, in the mean time, was married by another man; which allegiance of the said defender was repelled, and the allegiance of the said pursuer admitted.

*Fol. Dic. v. I. p. 568, 569. Maitland, MS. p. 188.*