

No 115.

A lady, minor, found entitled to reduce her contract of marriage upon enorm lesion.

1669. February 23. AGNES GORDON *against* GORDON.

IN a reduction at the instance of the said Agnes, of her contract of marriage *ex capite minoritatis et læsionis*, in so far as she disposed to her husband and his heirs, in case there were no heirs of the marriage, her lands and heritage, worth 300 merks yearly, and 2000 merks of moveables, without reserving her own liferent, and being provided only in liferent to 200 merks yearly; so that the husband being now dead, and there being no heirs of the marriage, the heirs who were strangers were to enjoy her whole estate; the LORDS sustained this reason to reduce the contract *ad arbitrium boni viri*, and for that effect ordained probation to be led as to the worth of the lands; notwithstanding it was alleged that contracts of marriage were such deeds as could not be reduced, they being in law so favourable.

This was done in respect of former practics upon the 22d of November 1664, betwixt M'Gill and the Laird of Gairn, No 77. p. 5696, *voce* HOMOLOGATION.

Fol. Dic. v. 1. p. 581. Gosford, MS. No 123. p. 123.

No 116.

1683. February 27. MONTGOMERY *against* EARL of LEVEN.

A minor heiress, with consent of curators, having provided a husband with a competent liferent out of her lands, this was not found lesion.

Fol. Dic. v. 1. p. 581. P. Falconer. Sir P. Home. Fountainhall.

. This case is, No 41. p. 3217. & No 43. p. 5803.

No 117.

1684. March. HENDERSON of Fordell *against* DRYBURGH.

MARJORY DRYBURGH having charged Sir William Henderson of Fordell for payment of 1000 merks contained in a bond of corroboration of a debt due to his father, and he having suspended and raised reduction upon a reason of minority and lesion, he being minor the time of granting the bond; *answered*, That there was no lesion, seeing the bond was granted in corroboration of a debt due to his father, who had disposed to the suspender his estate with the burden of his debts which he had undertaken to pay by his contract of marriage, and whereof there was no reduction raised. THE LORDS repelled the reason of suspension, and found the letters orderly proceeded in respect of the contract of marriage produced.

Fol. Dic. v. 1. p. 580. Sir Patrick Home, MS. v. 1. No 598.