

1688. *June.* Sir DAVID THOIRS *against* TOLQUHON.

No 118.

IN a reduction of a disposition intended upon minority and lesion, it was *alleged* for the defender, That he, besides the price mentioned in the disposition, was obliged, for his own security, to buy in a debt, whereon inhibition had been served against the disponent.

*Answered*, The lesion must be considered with relation to the price, and no subsequent right or debt can be conjoined to hinder the reduction; besides, the pursuer offers to purge the ground of the inhibition.

THE LORDS reduced.

*Harcarse*, (MINORITY.) No 720. p. 203.

1698. *February 24.*

CARMICHAEL of Maulsley and his LADY *against* The LADY CASTLEHILL and JOHN SINCLAIR of Stevenson, Younger, her Husband.

SIR GEORGE LOCKHART having granted a bond of provision to his daughter for L. 5000 Sterling, she is married to her cousin, James Lockhart, younger of Castlehill, and with the advice of friends there is a contract of marriage framed, by which she assigns her portion, then extending with the annualrents to 110,000 or 115,000 merks, and, in lieu thereof, she is provided with a jointure out of the lands, said to be worth L. 500 Sterling per annum. Castlehill, her husband, dying abroad, and she being now married to my Lord Carmichael's son, the Laird of Maulsley, and being still minor, she revokes her first contract of marriage with young Castlehill, and raises a reduction of it against Stevenson and his Lady, on these reasons, *imo*, That it is null, being entered into by a minor wanting curators, and her husband could not authorise her, especially in a post-contract drawn up after the marriage; for that were to make him *aucior in rem suam*; *2do*, She was enormly lesed in disposing away the fee of a vast tocher, without any clause of return of the whole, or a part, in case the marriage dissolved without children by his death, which event had existed, and had got nothing but a liferent of lands not worth 7000 merks per annum, which was but the annualrent of her own portion; so, in effect, she had nothing from Castlehill; and many other inequalities in the terms and conditions of the contract were insisted on to evince her lesion.—*Answered* to the first, Women-minors are by no law restrained to marry, nor to enter into contracts of marriage; and a wife who is major, entering into such a contract, is destitute of authority, seeing her husband can no more authorise her than a minor *in rem suam*; so that a minor can plead no nullity of her contract, except she qualify lesion, which brings all to the second reason of reducing; and there can be no

No 119.  
A Lady, minor, found lesed by her contract of marriage.