

1697. December 28.

MARQUIS OF MONTROSE and JOHN BUCHANNAN of Arrnprior *against* LIVINGSTON of Kirkland.

No 183.

A minor of 17 bought timber in conjunction with his father.

In a reduction upon minority and lesion, the defender was assoiized, the reduction not having been executed *intra annos utiles*, and there having been homologation.

It was anent a bond of L. 10,000 given by Kirkland and his father, as the price of a wood bought by them; of which bond young Kirkland raised a reduction upon minority and lesion, that he was then but 17, and his father's subscribing with him was no authorising him as a legal curator, but was *in rem suam*, and so *ipso jure* null, as was found M'Kenzie against Fairholm, No 23. p. 5639. & No 72. p. 8959. *Answered*, He can never reduce this deed on minority, because he was sufficiently authorised by his father, as administrator of law; neither is this like Sir George M'Kenzie's case, which was becoming cautioner for his father in a sum of money; but this is a bargain of trade, and in law *minor mercaturam agens non restituitur*. *2do*, He has not revoked, at least has not raised his reduction *intra annos utiles*. *3tio*, He has homologated the bond since his majority, by assigning the bargain of timber to one Smith. *Replied*, That this case needed no revocation, at least there was no necessity that reduction should be raised and execute thereon *intra quadriennium utile*; and as for the homologations, they never import where the deed can be ascribed to any other cause; and it was so found, Farquhar of Tonley *contra* Gordon, No 65. p. 5685.; where one's pursuing for relief of a debt did not debar him from quarrelling the bond; and sicklike, Moodie *contra* Macintosh, No 72. p. 5693.; the heritor's allowing the annualrents of a sum borrowed by him in his minority to his tenant, was found no such homologation of the bond, but that he might insit to have it reduced upon minority. THE LORDS sustained the answers, and assoiized from the reduction upon minority, both in respect of the want of an executed reduction *intra annos utiles*, and on the homologations; and some of the Lords were clear on the first head, that he was sufficiently authorised.

Fol. Dic. v. I. p. 586. Fountainball, v. I. p. 805.

S E C T. XII.

Whether recourse against curators bars reduction.—Whether reduction takes effect *ab initio* or only from decree.

1631. January 25. HOUSTON *against* MAXWELL.

No 184.

A GIRL 14 years of age at most, having sold her land without the authority of a Judge, the disposition was reduced from the beginning, and not from the