

No 116.

power to sell, gift, and dispoſe, the eſtate, and to contract debts, providing that his ſon ſhould be bound to pay all his debts, and proviſions granted, or to be granted, to his younger children, particularly a bond of 60,000 merks Scots, granted to two daughters of his ſecond marriage, and all proviſions he ſhould grant to his preſent, or any future wife, particularly an annuity of 1200 merks, and the liferent of the houſe, gardens, and incloſures, ſaid to be worth 000 merks, prohibiting the heirs of tailzie to contract debt, or alienate, and laying him under the burden of redeeming adjudications led on the tailzier's debts and children's proviſions, two years before expiration of the legal, prohibiting him to grant a jointure exceeding L. 20 Sterling to his preſent wife, nor proviſions to his younger children, exceeding two years free rent of the eſtate, obliging him to poſſeſs the eſtate by that, and no other title; with power to ſell as much as would answer the burdens laid thereon by the tailzier, at 20 years purchase.

William Ker raiſed a reduction of this tailzie, in which he was oppoſed by his own children, the heirs ſubſtitutes.

Deciſions cited for the purſuer, 17th February 1727, Gentles againſt Mitchell, and two caſes relating to the eſtates of Bachilton and Achlyne.—See APPENDIX.—See No 112. p. 12984.

THE LORDS found, that the tailzie under reduction did contain proviſions and clauses irrational and inſiſtent with, and contrary to the faith of the marriage-contract, and reduced the ſaid tailzie.

Reporter, *Arniston.* Act. R. *Craigie.* Alt. J. *Graham.* Clerk, *Forbes.*
D. *Falconer*, v. 1. No 159. p. 205.

No 119.

1750. February 22. SMITH and Others against HENDERSON.

A TENANT being obliged, by his contract of marriage, to lay out 3700 merks on land, and to take the rights to himſelf and wife in liferent, and children of the marriage in fee; the LORDS found he was not obliged to ruin himſelf by implementing this obligation, which could not be done without ſelling the ſtocking of his farm.

Fol. Dic. v. 4. p. 190. D. Falconer. Kilkerran.

* * This caſe is No 17. p. 6563. voce IMPLIED OBLIGATION.

No 118.

1751. July 17. JAMES STRANG against MATTHEW STRANG.

A tailzie,
containing
unreaſonable
conditions, in

JAMES STRANG, portioner of Meikle Earnock, being bound by his contract of marriage to provide his ſaid lands, and all others he ſhould acquire, to the heirs