

1674. February 10.

MARION GRAY *against* Her HUSBAND'S SON and HEIR, and CREDITORS.

MARION GRAY by her contract of marriage disposes some lands in Glasgow, whereof she was heretrix, to her husband, who provided her to the liferent of all the means he had, and to the liferent of the half of the conquest; whereupon she pursued his heir for implement, and after decret and horning, pursues an adjudication of the half of the liferent of the tenements acquired. The creditors *alleged* that this contract was latent and fraudulent, and could not be sustained in the case of a Merchant against Merchants who had continued trade with him. It was *answered*, That it was an ordinary clause, and for a very onerous cause, anterior to the contracting of the debt; and none of the debts could be contracted for acquiring of the lands, because they are long after.

THE LORDS sustained the contract and adjudication.

*Stair, v. 2. p. 263.*

1680. November 23.

WOOD *against* REID.

JAMES WOOD as creditor to unquhile Andrew Balfour, pursues reduction of an assignation procured by Balfour, of a sum belonging to Andrew in favours of Mr Patrick Reid, who married his daughter, as being betwixt conjunct persons, without a cause onerous. The defender having condescended upon several causes onerous; and amongst the rest, that he having married Balfour's daughter, the only child of his marriage, in favours of whom 25,000 merks were provided by her mother's contract; this assignation was all the provision he had, and therefore is in place of a contract of marriage, which being *ad sustinenda onera matrimonii* is an onerous and most favourable contract. It was *answered*, That though it had been a formal contract, yet being granted by Andrew Balfour, who was in prison for debt, and commonly reputed bankrupt, it could not prejudice lawful creditors; but Reid having married the woman, her father being in that condition, is not as if her father had been in entire reputation, but it must be understood that he married her *cum periculo* of her father's debts.

Which the LORDS found relevant.

*Fol. Dic. v. 1. p. 73. Stair, v. 2. p. 804.*

1711. June 26.

AIKENHEADS *against* AIKENHEADS.

THE deceast Sir Patrick Aikenhead commissary-clerk of Edinburgh, by his first contract of marriage with Griffel Durham, provides the children to 25,000 merks, of which there are four bairns yet living. In his second contract of marriage

No 92.

A man by contract of marriage provided his spouse in the liferent of all he had at the time, and the liferent of half the conquest. Good against Creditors, the lady, by the same contract, having disposed her estate to her husband.

No 93.

A father, while in prison, and reputed bankrupt, made an assignation to his son-in-law in lieu of tacher; although onerous, the daughter not being otherwise provided for, found reducible; and that a son-in-law, contracting with a father in such circumstances, must run the hazard of the father's debts.

No 94.

A man provided the children of his first marriage in