

No 121. and her children were left miserable; and the creditors *alleging*, That she could not say she was lesed, being provided to a competent jointure;—to which it was *answered*, That she was enormly lesed, by denuding of her estate, to be carried off by his creditors; and her jointure was but a name, nothing being left, either for her liferent or childrens' provision.—THE LORDS repelled that defence, and found the minority and lesion proved, and reduced the contract, in so far as concerned the disposition she had given of her own estate; only this did not take from the husband and his creditors the *jus mariti* to the rents of the lands during the standing of the marriage, and until the husband's death.

Fol. Dic. v. 1. p. 581. Forbes. Fountainball.

* * This case is No 249. p. 6045. *voce* HUSBAND and WIFE.

1710. July 14. CHALMERS *against* LYON'S CREDITORS.

No 122.

AN heiress married at the age of sixteen, without consent of her mother; and nine months thereafter a contract was made, whereby she disposed her heritage *nomine dotis*, and the husband bound himself to have in readiness a suitable sum of money, and to take it to her in liferent, and to the children in fee, without any provision to her of the liferent of her own lands, but giving her the liferent of half the conquest. The husband became *oberatus*, and gave to his creditors infestment out of the lands, and died leaving children. In a reduction of this contract at her instance, upon minority and lesion, the LORDS sustained the reason arising from the above facts, and therefore admitted her to liferent the lands she brought along with her. But whether the fee of the lands would belong to her children, or to her husband's creditors after her death, was not decided.

November 12. 1714.—Thereafter the husband's creditors having adjudged the lands after his decease, as in his *hereditas jacens*; the LORDS, in a competition betwixt them and the relict, sustained her reason of reduction of the fee, as they had done of the liferent, upon minority and lesion, unless the creditors would undertake to make out that the husband had a stock at the time of the contract for securing the wife in a liferent, though afterwards his means failed.

Fol. Dic. v. 1. p. 581. Fountainball. Forbes. Dalrymple. Bruce.

* * This case is No 265. p. 6056. & No 266. p. 6059. *voce* HUSBAND and WIFE.

No 123.

1729. January 29. MONCRIEF *against* CREDITORS of MITCHELL of Balbardie.

SOME years annualrent being resting to a minor upon an heritable bond, he not obtaining ready payment from the debtor, granted him a discharge thereof,