

1724. November 17.

DAVID MUIRHEAD *against* AGNES MUIRHEAD of Drumpark, and her HUSBAND.

THE settlement and possession of the estate of Drumpark is narrated in a decision, marked February 11th, 1724, *voce* MUTUAL CONTRACT, which having gone in favour of Agnes, and she ready to extract her decreet, David Muirhead, grandchild to old David by a second son, insisted in a reduction of the destination in John's contract of marriage, by which he altered the succession from heirs-male to heirs-female, upon these grounds, that he was minor, and could not make such an alteration; and though he could, yet the contract was null, because he had curators, and their consent was not adhibited to it.

It was *answered*, That a minor might do any deed which was not to his lesion; that the settlement was onerous, being in John's own contract of marriage, and was so far from being to his hurt, that it was rather for his interest, since thereby the estate was settled upon his daughters, in exclusion only of extraneous heirs-male; *2do*, Though he had curators, (which was denied,) yet he might, without their consent, do any rational or beneficial deed for himself, and his onerous deeds would be binding; December 11th, 1629, Earl of Galloway, No 54. p. 8941.; February 5th, 1621, Inglis against Sharp, No 55. p. 8941.; January 9th, 1629, Brown against Nicolson, No 52. p. 8940.; and February 24th, 1672, Corsar against Deans, No 60. p. 8944.

THE LORDS found, that a minor having curators cannot, in his contract of marriage, without their consent, alter the destination of succession in a tailzie, from heirs-male to heirs of line; but found, that if the minor had no curators, he might in his contract of marriage alter the said destination of succession; which not being revoked *intra annos utiles*, was binding, and not reducible.

Act. *Ja. Graham, sen.*Alt. *Ja. Fergusson, sen.*Clerk, *Gibson.**Edgar, p. 118.*

1732. July 5.

CRAIG *against* GRANT.

A BILL, granted by a minor, safe from the exception of minority and lesion, because he was a trading merchant at the time, was challenged as null, being without consent of the minor's father, administrator-in-law. *Answered*, That, if the minor's being a trading merchant is sufficient to presume it a reasonable act, so as to defeat the exception of lesion, it must, of course, also defeat the nullity arising from want of the administrator's consent; for deeds done by minors, without consent of curators, are effectual, if rational and prudent, as well

No 66.

Found, That a minor having curators could not, in his contract of marriage, without their consent, alter the destination of succession in a tailzie from heirs-male to heirs of line; but found, that if the minor had no curators, he might, in his contract of marriage, alter such destination of succession.

No 67.