

leith to his brother, who was content to accept of this new security, which bears nothing but a continuation to pay the principal until Simpson's real right should be purged by the common debtor, but bears an express obligation to pay annualrent in the mean time; in respect whereof the LORDS gave their decret of poinding of the ground; which being just upon the matter, that decret can never be reduced upon minority and lesion; there being no difference betwixt minors and majors, where decreets are given upon a point of law controverted; and for any new allegiance, it cannot be now received, seeing the deposition of writers and comuners cannot take away a clear bond wherein there is no ambiguity or unclearness.

No 140.

THE LORDS, notwithstanding, ordained the writers and witnesses to be examined, *ex officio*, which was very hard, seeing the father who bought the estate of Inverleith was burdened with the former bond of provision made by the old Laird to his brother, and which was preferable to Simpson's right, so that both these rights being known to the buyers, it could not be presumed in common sense that it should have been intended that if Simpson obtained a decret, that Inverleith's brother, or Pilton his assignee, should take their whole right.

*Gosford, MS. No 470. p. 242.*

\* \* A similar decision was pronounced 15th June 1680, Gordbn against the Earl of Queensberry, No 3. p. 8235. *voce* LETTERS OF SUPPLEMENT.

1679. December 20.

EARL OF ANNANDALE and COWHERD *against* JOHNSTON of Breakenside.

MINOR *non tenetur placitare*, not even in a question of meiths and marches, seeing that may cut off some of his inheritance. Here it was repelled, because proponed *post conclusum in causa, et minor lite se obtulit*; and they found the last Earl had intruded.

No 141.

*Fol. Dic. v. 1. p. 582. Fountainhall, MS.*

1683. November.

LADY BALLEGERNO *against* LADY ROSS.

A MINOR and her curator having intented *actionem tutelæ* against her tutor, and he having extracted a decret, she raised reduction thereof upon minority, as being lesed by some articles in the count and reckoning, and the term assigned for proving the lesion being circumduced; the minor was again restored against the circumduction; though it was *alleged*, that persons were put to greater expenses in defending against minors than against others; and that the circumduction of terms concerns the method and order of process, against which minors should have no privilege.

No 142.

*Fol. Dic. v. 1. p. 583. Harcarise, (MINORITY.) No 709. p. 201.*