

that she craves adjudication for the half. The Lords found the allegiance relevant to make her come in with the other.

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1632. *February 7.* WILLIAM HOME *against* DOROTHEA HOME.

By contract of marriage between Samuel Home and Isabel Cranston,—William Home of Whitrig father to the said Samuel, and George and Robert Homes his two brothers, were bound to pay 2000 merks to the said Samuel and his wife, to be employed upon annual-rent to the behoof of them and their heirs. William Home, heir to this Samuel, got this contract registrat against Dorothea Home, heir to the said George his father's brother; and, having charged her, she suspended on this reason, That, by a decreet-arbitral pronounced betwixt the pursuer's father Samuel and umquhil Helen Home his mother, the foresaid contract of marriage was decerned to be delivered to the said Helen to be cancelled. Alleged, The decreet-arbitral was null, in respect that, there being only submitted all differences betwixt the said Samuel and Helen, there could be no more decerned than concerned themselves submitters: But so it is, that there was no difference betwixt them anent the payment of the said sum contained in the contract, Helen not being a party-contractor therein; But the truth was, that the said George, Samuel's elder brother, who was obliged, with his father and brother Robert, for payment of that 2000 merks, being chosen oversman in that submission betwixt Samuel and Helen; he himself, after he had decerned anent the differences betwixt the parties submitters, did cast in, That, at the end of the decreet, that Samuel should deliver that contract to be cancelled. Replied, It, being a decreet standing, could not be taken away summarily, but behoved to abide reduction. The Lords found the decreet null by way of exception.

Next Alleged, The charger could not challenge it upon that nullity, because he had homologated it, in so far as he did enter to the possession of the mill of Old Aiton, as was decerned in that decreet, and also had paid to his mother nine bolls of malt yearly after that, as long as she lived; in respect whereof he had ratified the decreet, and could never impugn it after that. Answered, That homologation could not be extended further than to that which concerned the two submitters, neither could it import a liberation to the oversman of his obligation in that contract, which fell not within the compass of the submission. The Lords found this homologation not such a deed as might prejudice the charger to quarrel the decreet upon the ground foresaid.

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1632. *February 7.* WILLIAM COWIE *against* GIBSONS.

In a pursuit for £120, by William Cowie against Gibsons, executors to Isabel Sutherland, their mother, the pursuer was suffered to restrict it to £100.

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