

*inter dotem et donationem propter nuptias*; and whatever majors, who are *rei sue arbitri*, may yield in their contracts, that is no rule to minors, but their standards must be what majors, well advised, and acting on rational grounds and considerations, would do in such a case.—THE LORDS found the Lady Maulsley lesed by her first contract of marriage; but reserved to themselves to consider, if this should import a total restitution against the articles of it, or only a rectification, to bring up the terms to an equality and equilibrium.

*Fountainhall, v. 1. p. 827.*

No 119.

1705. July 14.

PATRICK M'DOUGALL, Merchant in Edinburgh, *against* MR JOHN MARSHALL.

MR JOHN having taken off mournings from the said Patrick for the funerals of his father, to the value of L. 96 Scots, he raises reduction thereof, on this head, That he was minor, and had *debito tempore* revoked, and was clearly lesed, they not being for himself, but for his brother and sister, whom he was not bound to furnish, he now discovering his father's estate to be overburdened with debts.—*Answered*, He sent for the merchant, and was the sole off-taker and engager for their payment; Mr. M'Dougall knew not for whom they were, nor bargained he with any but him; he saw him by the habit of his body to be of a man's growth, and if he was minor, he could not want much of twenty-one; neither did he signify to him his minority, and so *dolose* by his silence induced him to trust him, *et non debet ex sua fraude lucrari*. Likeas, he was a master of arts, and took off cloaths to his brother and sister, (which the merchant was not concerned to know) it was *debitum naturale et officium pietatis* in him, and he can retain it out of their patrimonies at counting.—THE LORDS repelled the reason of minority in this case, and found him liable; though the furnishings were not to himself, but to his brother and sisters, reserving his action for repayment against them as accords.

*Fol. Dic. v. 1. p. 580. Fountainhall, v. 2. p. 284.*

\* \* \* Forbes's report of this case is No 59. p. 421. *voce* ALIMENT.

No 120.

A minor, who was a master of arts, and in appearance adult, found liable for furnishings bespoke by himself, although not for himself, but for his brother and sisters, whom he was not bound to aliment in consequence of any succession acquired by their father, whose estate had been overburdened with debt.

1708. July 28.

BYRES *against* REID.

No 121.

IN a reduction at the instance of a wife upon minority and lesion, in a competition with the husband's creditors, libelling upon her disposing in her contract of marriage, at the age of seventeen, all her heritage, and the husband binding for a suitable jointure; yet that soon after the marriage, it appeared that he was worth nothing, having first retired to the Abbey, and then to Flanders to be a soldier; and his creditors having seized on his whole estate, she