

of not payment of the principal sum, at the first term subsequent to her mother's decease, whereby she *alleged* that the bond was heritable, and pertained to her heirs, and could not pertain to the executor of her husband, in whose lifetime the term of payment came not, and who could not have right to the sum, nor prejudice his wife thereof; yet this was repelled, and the LORDS found, that it remained moveable, and that the husband might have discharged it, the term not being come so long as he lived, and so pertained to his executors; and hereby the woman wants her right, which pertains to strangers, there being no bairns of the first marriage, which is hard. See January 15th 1628, Falconer *contra* Beatie, No 34. p. 5465, where the contrary is done, and the sum found heritable, and to pertain to the heir.

No 36.

Act. Nicolson.

Alt. Craig.

Clerk, Hay.

Fal. Dic. v. I. p. 387. Durie, p. 296.

1663. January 29. SCOT *against* MR JOHN DICKSON.

SCOT, as assignee by her father to a bond, charges Mr John Dickson to make payment. He suspends on this reason, that the assignation being while the charger was wife to Scot her husband, the sum belonged to the husband *jure mariti*; and therefore craves compensation of the like sums, paid to, or for the husband. The charger *answered*, That though the date of the assignation was before her husband's death, yet her father kept the same in his custody, and it was not intimated till after the husband's death, and so the right not being established in the wife's person by intimation, could not accresce to the husband, unless the suspender would instruct that it was intimated before.

THE LORDS found, that seeing the assignation was now in the wife's hands, they would not put the suspender to prove the delivery thereof, during the marriage, but that it was presumed to have been delivered according to the date, and that thereby it became the husband's, *jure mariti*, though no intimation was in his time.

Fal. Dic. v. I. p. 387. Stair, v. I. p. 165.

No 37.

A sum assigned to the wife was found to become the husband's *jure mariti*, tho' not intimated by the wife till after his death.

1709. July 26.

Dame JANET MURRAY LADY PITFIRAN *against* MR ALEXANDER WOOD, Chamberlain to the Earl of Kinnoul.

No 38.

A bond granted to a Lady in lieu of the ordinary compliment of a gown, for

IN the suspension of a charge at the instance of the Lady Pitfirran against Mr Alexander Wood, for payment of L. 1400 contained in a bond granted by him to the charger, for the behoof of the Lady Cultmalundie her daughter, in lieu of the compliment of a gown for renouncing her liferent right in the lands