

as if it had been made since her marriage, because he offered to prove the real furnishing made to her, which was the cause of the bond, and also by divers ministers, and other famous witnesses who saw the bond before the marriage; and as this bond was good in law before marriage, so of no reason could her subsequent marriage prejudice the bond; which reply was repelled, and the allegiance of nullity of the bond sustained against the husband, which against him was found might not be supplied to receive any execution, either against his own goods, nor his wife's, during their living together, albeit the pursuer offered to restrict the pursuit to the goods only pertaining to the Lady, which was refused, but prejudice always to take the Lady's oath, for this effect only, viz. to work against herself, in case she survive her husband, or against such goods as might be found properly to belong to her at her decease, and no further.

No 359.

Act. Graig.

Alt. Gilmour.

Clerk, Gibson.

Fol. Dic. v. 2. p. 241. Durie, p. 789.

1668. February 26.

GEORGE GRAHAM *against* GRISSEL TOURS, and the LAIRD of KILHEAD, her Husband.

GEORGE GRAHAM having obtained a decret before the bailie, against Grissel Tours and her husband, for furnishing to her first husband's funeral; her husband suspends, and raises reduction on these reasons, that albeit he stayed sometimes in a chamber in Edinburgh, he was not in this jurisdiction, and that his wife's oath could infer no burden upon him, and that the bailies did unwarrantably hold him as confest, for not given his oath of calumny, whether he had reason to distrust his wife's oath.

THE LORDS found this unwarrantable, and therefore reduced the decret as to the husband, but decerned against the wife, *ad hunc affectum*, to affect her if she survive, or her executors after her death, or otherwise to affect any other goods she had excepted from her husband's *jus mariti*.

Fol. Dic. v. 2. p. 241. Stair, v. 1. p. 526.

No 351.
Found again
in conformi-
ty with Ker
against Cov-
ington.

1676. January 11. PATON and MOSSMAN *against* PITCAIRN and her Spouse.

WILLIAM PATON and George Mossman, as factors constituted by Cornelius Williamson, an Hollander, to uplift 228 gilders, due by ticket, by umquhile John Rankin to Williamson, pursues Christian Pitcairn his relict, as intromitter with his goods, or as having promised payment before the bailies of Edinburgh. The defender raised advocacion upon iniquity, *imo*, Because the bailies sus-

No 352.
A wife's oath
of calumny
cannot af-
fect her hus-
band.