

upon land, and to take the securities to himself in liferent and the heirs male of the marriage in fee, and till lands were purchased, to lend the same upon bonds, and take the securities in the same manner; and certain portions were provided to daughters in case of no sons. There was issue of the marriage a son and several daughters, and Dirleton entailed the lands of Craigentenny (in part implement of the contract) to David the son of the marriage and the heirs-male of his body, which failing, the other heirs-male of that marriage, which failing, to Walter, a son of a former marriage, and the heirs-male of his body; which failing, to his own heirs-male of any after marriage, which failing, to the heirs-female of Walter's body, which failing, the heirs-female of David's body, &c. with prohibitory and irritant clauses. David died before his father and mother, and the daughters claimed the L.100,000 as heirs to David. Lord Arniston, Ordinary, found that David having died before dissolution of the marriage, the daughters had no title to that provision; and afterwards found that Dirleton was not bound to settle the L.100,000 on the son of the marriage and his heirs whatsoever without limitation, but that failing the son and heirs of his body, he might substitute whom he pleased, or declare the provision extinct; that the disposition of Craigentenny and substitution therein contained, was a lawful implement *pro tanto*, not quarrellable by the daughters, and adhered to the former interlocutor;—and the Lords adhered.

No. 9.

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1738. November 3. PARKHILL *against* WEIR.

CONTRACT of marriage containing a disposition by the wife to the husband *omnium bonorum*, with a reserved faculty to the wife to dispose of 10,000 merks, was found to imply the burden of the wife's debts at the time, at least *ad valorem* of her effects; and the husband found liable *in valorem* of the subjects intromitted with by him both to her debts and likewise to the reserved family, whether there should remain to him a competent tocher or not, though the case had been otherwise if the disposition had not been general, but of certain partial subjects of whatever value. *Vide* IMPLIED WILL. *Vide* No. 9. *voce* HUSBAND AND WIFE.

No. 10.