

the Lords have also found in a parallel case betwixt the Laird of West-Nisbet and the Laird of Moriston, 27th March 1627, *voce* PERSONAL and TRANSMISSIBLE.

No 364.

THE LORDS repelled the objections against the charger's title, and found my Lady Kinnaird hath right to all annuities due, preceding the revocation by my Lord, and until the same was founded upon, the sums now charged for being appropriated for an aliment to my Lady; and found the revocation could not exclude her Ladyship, in so far as concerns a suitable aliment, since it was made use of, and in time coming, during their separate abode.

Act. Arch. Ogilvy.

Alt. Ro. Dundas.

Clerk, Mackenzie.

Fol. Dic. v. 1. p. 412. Bruce, No 62. p. 75.

1757. *January 4.* MARJORY CRAMOND *against* ROBERT ALLAN.

No 365.

ROBERT ALLAN and Marjory Cramond, spouses, having lived for some years in very bad terms, agreed at last to a separation, which was executed, at the sight of the friends of both parties, by a writing, in which he obliged himself to pay her, of separate aliment, L. 5 yearly, during their joint lives; which was about one-sixth of his free estate; and she obliged herself to renounce all farther claim of aliment or separate maintenance.

Agreement settling the amount of a separate maintenance, revocable by the wife.

She received this separate maintenance for five years; but, at the end of that term, sued her husband for a higher separate maintenance; *pleading*, That she might revoke the former agreement as a bargain betwixt husband and wife.

Answered, The reason on which donations *inter virum et uxorem* are revocable, is, *Ne mutuo amore se spolient*; but here was no donation of that kind, nor any fear of that consequence; and the agreement was a settlement consented to by the wife's friends, and acquiesced in by her for five years.

' THE LORDS found the agreement revocable.'

Act. Rae, Lockhart.

Alt. J. Dalrymple, Craigie.

J. D.

Fol. Dic. v. 3. p. 288. Fac. Col. No 5. p. 7.

1797. *November 28.* CATHARINE LAWSON *against* DAVID MACCULLOCH.

DAVID MACCULLOCH and Catharine Lawson, his wife, in May 1795, entered into a voluntary contract of separation, by which he became bound to pay her an annuity of L. 30, which she accepted of, in full of aliment, terce, and every legal claim which might arise to her, either during her husband's life, or at his death.

The parties were afterwards reconciled, and in December 1795, they entered into a postnuptial contract of marriage, by which Mrs Macculloch was provided in a jointure of L. 30 yearly.

No 366.
A voluntary contract of separation, by which a wife accepted an annuity from her husband, in full of every legal claim, found not to bar