

- No 92. *causa fuit ex parte mulieris.* To this was answered, *quod super pendente lite*, she ought to have her expenses off him, *quia de jure Scotiae, maritus est dominus omnium bonorum*, and unto the time the sentence of divorcement was given, she could have nothing by him.—THE LORDS pronounced by interlocutor, that *pendente lite*, she ought to have her expenses, and so modified to her, *per modum provisionis*, the sum of L. 400 to live upon.

*Fol. Dic. v. 1. p. 392. Colvil, MS. p. 282.*

- No 93. 1613. June 8. CLEMENT RUSSEL against THE EARL OF ARGYLE.

IN an action betwixt Clement Russel as donatar to the escheat of Robert Erskine against the Earl of Argyle, the Lords sustained a bond made by Dame ——— Douglas, spouse to my Lord Argyle, containing ——— merks to the said Robert Erskine, notwithstanding the bond was borrowed, and not subscribed by my Lord, and that because her Ladyship was *illustris persona*; and it was offered to be proved my Lord was out of the country the time of the making of the bond.

It was *alleged*, That the Lords decided otherwise against the La. Holyrood-house, viz. they found her own bond sufficient against herself, and not against my Lords heirs.

*Fol. Dic. v. 1. p. 392. Kerse, MS. fol. 64.*

- No 94. 1672. July 10. NEILSON against GUTHRIE and GAIRN.

A husband found liable for clothes bought by his wife after proclamation of banns.

ALEXANDER NEILSON pursues Barbara Guthrie and Mr William Gairn, her husband, and Captain Guthrie, her father, for an account of L. 500 for her wedding-clothes, taken off in his shop. It was *alleged* for the said Barbara, That she was minor, and the furniture was taken off, not only without her father's consent, but contrary thereto, for he did prohibit it, and so being done without consent of her father as curator, or lawful administrator, her obligation was null. It was *alleged* for the father *absolvitor*, because he had expressly prohibited the merchant to give off this ware, and there was nothing to oblige him to furnish wedding-clothes to his daughter, but that he might appoint her to be married in the clothes she had, if he thought fit. It was *alleged* for the husband, That he could not be liable, neither having promised, nor yet been liable for the debt of his wife, which was contracted after proclamation. The pursuer answered, That he offered to prove that the said Barbara was major, and that he did not found upon the father's promise, but that the father having consented to the marriage, and subscribed the contract, was thereby obliged to solemnize the marriage, and to furnish his daughter clothes according to her quality, being a part of his natural obligation: Likeas, the husband was obliged *de in rem verso*, because his wife be-

proved to have had other clothes, if she had not been furnished with these. — The Lords found the wife liable, if she was major; but found the father not liable, seeing he prohibited it; but found the husband liable however *de in rem verso*. See RECOMPENCE.

*Fol. Dic. v. 1. p. 393. Stair, v. 2. p. 98.*

No 94.

1675. June 23. WIDOW AUCCINLECK against EARL OF MONTEITH.

In a pursuit at the widow's instance against the Earl for payment of a hundred and seventy seven pounds, as the price of a parcel of stuff and furniture, sold to his Lady for her abulziements, it was *alleged* for the Earl, that before that furniture was gotten off, he had served inhibition against the Lady, which was registered and made public, after which she was not capable to contract debt. It was *replied*, that the sum craved being for merchandise and necessary abulziements, the Lady being in want, the inhibition could not affect the same, nor put the pursuer in *mala fide*, especially being for so small a sum. The Lords did ordain the pursuer to give her oath, if the inhibition was particularly intimated to her, which she denied; and thereafter, having advised this as a common cause, did find, that the Earl was not liable, he proving, that he furnished the Lady sufficiently with clothes and other abulziements.

*Fol. Dic. v. 1. p. 393. Gosford, MS. No 760. p. 471.*

No 95.

The husband is liable for goods taken off by his wife, even after inhibition, unless he can prove, that she was otherwise provided for.

1676. July 19. SANDS against EDMISTON.

ELIZABETH SANDS having pursued her husband, who deserted her and went abroad, for adherence, upon the act of Parliament, and the bishop having refused to excommunicate him for non-adherence, that by virtue of that act she might have divorce; she did therefore apply to the Council for an alimment, and got it locally out of certain tenements of her husband's, and now pursues for mails and duties. It was *alleged* for Mr Robert Edmiston, That he had adjudged the tenements in question, and was thereupon infest, and the act of Council could but import an assignation to the mails and duties, which ceased by an infestment, though posterior, which the Lords found relevant.

*Stair, v. 2. p. 455.*

No 96.

1676. July 25. CAMPBELL against The LAIRD of EBDEN.

LILLIAS CAMPBELL pursues the Laird of Ebden for payment of an account of ware taken off by his Lady, acknowledged by her ticket under her hand, sub-

No 97.

Found in conformity with No 95. *supra*.