

No 46.

1709. July 8. Lady RANKEILOUR *against* Lady AYTON.

GOLD medals gifted by the husband, before marriage, fall not under the division of moveables betwixt husband and wife.

Fol. Dic. v. I. p. 388. Forbes. Fountainball.

* * * See this case No I. p. 5759.

1711. June 27. The Lady BUTE *against* The EARL, her Son-in-law.

No 47.

A purse containing medals and purse pennies was allowed to belong exclusively to a lady, but not cash she had in her own keeping.

THE last Earl of Bute, by his bond of provision in March 1710, (before he went to the baths in England, where he died in May thereafter) granted a life-rent to his Lady of 3300 merks yearly, payable at the first term after his decease; and his son declining payment, she raises a process against him, both for bygones, and in time coming, and likewise for the annualrents of her own son's patrimony. *Alleged* for the Earl, Her life-rent was *quoad* bygones more than compensated and extinguished, by her intromission with lying money and gold, beside the defunct, or actually in her hands the time of his decease, unaccounted for; and offered to prove it by her oath: And she having deponed, acknowledged she had, at the dissolution of the marriage, a purse containing sundry medals and purse-pennies, given by the Earl and other friends to her and her son, in which number there were some guineas, and she judged the whole might be about L. 60 Sterling, and that she had nothing as the product of any trade she drove, except about 2 or 3 elns of Alamode: And that she lent out no money during the marriage, nor any other for her behoof. And being interrogated, What lying money she had in her hands at her husband's death? depones, She had about L. 40 Sterling, being presents paid by the tenants to the family, which the Ladies ordinarily lifted in specie for the house; and such as were not paid in kind were paid in money, and the Earl allowed the same to her. This oath coming to be advised, it was *contended* for the Earl, That the quality adjected of their being gifted was wholly extrinsic? Neither had she distinguished, nor specially condescended, what was current gold, and what were purse-pennies; for probably, under that denomination, she might include Spanish pistoles, French Louis-d'ors, Hungary ducats, English Jacobus's and Carolus's, &c. though all these had a determinate known value; nor has she told when they were given, whether before or after the marriage, nor what she got from friends; and even none of these are paraphernal, like watches, rings, bracelets, &c. but are *epicæni generis*, as commonly used by men as by women: And, in the famous decision *supra*, 15th January 1697, *Dick contra Massie*, No 45. p. 5821. there is a full and ample enumeration and detail of what is the *mundus et vestitus muliebris*, and what not; and there a purse of gold was not reckoned *inter paraphernalia*: And, in a later case, the Lady Rankeilor *contra* the Lady Ayton, No I. p. 5759. they Lords found a gold medal, called an