

prove that the things were necessary, and suitable to one of her rank and station, and nowise exorbitant; in which case, they found there was no need of the father's special warrant for furnishing the same; *3tio*, They found it relevant to assoilzie the father, that he proved the furnishing of his daughter sufficiently *aliunde* by paying accounts for her elsewhere to merchants for clothes near the time of contracting this debt; *4to*, They rejected two articles of the account, for a watch and borrowed money, as not necessary nor suitable, (though she was a gentlewoman) unless the merchant would prove the watch yet extant, or that they were *in rem minoris versa*.

Fol. Dic. v. 2. p. 321. Fountainhall.

* * This case is No 336. p. 12428, *voce* PROOF.

No 34.

1730. June.

FERGUSSON *against* MUIR.

The father is primarily liable for wedding clothes furnished to his daughter, upon this *medium*, That he is bound to provide for her; therefore the furnishing is presumed to have been made upon his faith; but the husband is liable *subsidiarie*, because the furnishing must be considered *in rem versum* of his wife, and a debt upon her, and consequently upon her husband by the father's insolvency. See APPENDIX.

Fol. Dic. v. 2. p. 321.

No 35.

1732. November.

SNODGRASS *against* CRAWFORD.

In an action pursued against an apparent heir, brother to a defunct, by a merchant who furnished mournings to the defunct's family, and to the defender in particular, though without any alleged order from him, the Lords found the defender liable; though it was *pleaded* for him, That *qui in funus impendit, videtur contraxisse cum defuncto*, and therefore the defunct's representatives are the persons who ought to be made liable, who in this case was the executor, the defender, apparent heir, no way representing his brother; that the mournings were truly *in rem versum defuncti*, as a part of the funeral expenses, as much as mournings furnished to servants; which was alleged to be the custom of all civilized nations, and of our neighbours in England in particular. See APPENDIX.

Fol. Dic. v. 2. p. 321.

No 36.
Who liable
for mourn-
ings.