

annuity was constituted, the said annuity was to bear annualrent from the respective terms of payment thereof.

It appeared to the Court, That as the acts 1641 and 1661 had made nothing heritable that was not heritable before, nor indeed made any alteration as to the interests of husband and wife, the present question was to be determined by the law as it stood before these statutes, when these by-gones would not have been considered *æda pecuniæ*, but as *fructus*.

Some of the Lords having been of a different opinion, there was a reclaiming petition appointed to be seen and answered, but which was never advised.

*Fol. Dic. v. 1. p. 384. Kilkerran, (HUSBAND AND WIFE.) No 3. p. 257.*

No 7.  
ing annual-  
rent fall un-  
der the *jus*  
*mariti*.

1748. *June 7. LADY WIGTON against LADY CLEMENTINA FLEMING.*

THE LORDS found, That a lady's dressing plate were not paraphernalia, so as to exclude the *communio bonorum*. See APPENDIX.

*Fol. Dic. v. 3. p. 278.*

No 8.

1750. *January 11. MUNGEL against CALDER.*

PATRICK CALDER of Reidford, accepted a bill, payable to Janet Mungel, spouse to James Hastie of Boggo, in the following terms: 'Against Martinmas next, pay to me Janet Mungel, spouse to James Hastie of Boggo, or my order, secluding my husband's *jus mariti*, in the house of William Rannie merchant in Falkirk, the sum of twenty guineas, value in your hand received of, (signed) Janet Mungel.'

The charge on this bill was suspended on the following reasons, *1st*, That it was null, not being in the ordinary form and stile of a bill, as containing an exclusion of the husband's *jus mariti*. *2do*, The value by presumption of law, must have belonged to the husband, and it was not in the wife's power to exclude the husband's *jus mariti*; therefore the acceptor is not bound to pay to her but to her husband, against whom the suspender had a compensation to plead.

To all which the *answer* was, That the bill was granted as the value of a gown, which was agreed to be given to the charger, upon the sale of certain lands by Boggo to Reidford, and which did not fall under the *jus mariti*, and the husband nor his creditors had no interest in it.

Which the ORDINARY 'sustained, and found the letters orderly proceeded;' and the LORDS 'adhered.'

*Fol. Dic. v. 3. p. 278. Kilkerran, (HUSBAND AND WIFE.) No 17. p. 269.*  
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No 9.  
A bill to a  
wife, bearing  
exclusion of  
the *jus mariti*,  
effectual,  
where it is  
for money  
that does not  
fall under it.