

1749. *November 24.* FORREST *against* EARL OF SUTHERLAND.

No 226.

A WIFE cannot grant a bill for millinery goods furnished to her, or any other security bearing interest, without her husband's consent.

Fol. Dic. v. 3. p. 283. D. Falconer.

* * See this case, No 6. p. 478.

1751. *January 25.* Dame JEAN DOUGLAS *against* ANNE KENNEDY.

No 228.

DAME JEAN DOUGLAS, relict of Sir John Kennedy of Cullean, pursued his executor, Anne Kennedy, spouse to Blair of Dunskey, for her mournings, and obtained decret before the Commissary; which was suspended on compensation; for the Lady had in her hand, when her husband died, money to the amount of about L. 70 Sterling.

Money given to a Lady, on such occasions as letting of tacks, found, after the husband's death, to belong to her, as donations unrevoked.

Answered, The money was the Lady's own, consisting of compliments at several times given her, on occasion of letting tacks, selling cattle, and other such occasions by her husband's allowance.

THE LORD ORDINARY found the letters orderly proceeded.

Pleaded in a reclaiming bill, Allowing the fact, it is not relevant; the compliments were of current money, the property whereof did not rest in the wife, but fell under the husband's *jus mariti*.

Answered, These sums were gifts by Sir John to his Lady, and confirmed by his dying without revocation.

THE LORDS repelled the compensation, and adhered.

Act. Ferguson. Alt. Macdounal. Clerk, Forbes.

Fol. Dic. v. 3. p. 283. D. Falconer, v. 2. No 185. p. 224.

* * Kilkerran reports the same case :

It is common in some parts of the country, where tacks are let, on which grassums are paid, or where a considerable number of cattle are sold, that the taker of the tack, or buyer of the cattle, gives a present to the Lady; and the money made up of these presents, though it be not inter paraphernalia, yet it is considered as a donation by the husband *quæ morte confirmatur*.

And so the LORDS found in this case, which was a process at the instance of Lady Kennedy, relict of Sir John Kennedy of Cullean, against her daughter, executor confirmed to her father the deceased Sir John Kennedy, for payment of her share of the silver plate; against which the defender pleaded compensation, upon a large sum alleged to be found in the Lady Kennedy's hands at her husband's death, which the Lady had upon oath acknowledged herself to be possessed of, but added, that she had got it upon occasion of her husband's let-