

her, and that a bond made by her, having an husband, was null wanting his consent, and could not be obligatory against her; and the other *answering*, That he had no action upon that bond against the husband, not being made by him, neither could he prove that the money was furnished for his wife's use, because that probation which in law is good against herself, viz. her oath, is not relevant, and will not be admitted to prove against him, and he has no other probation; and so he cannot prevail against the husband, whereas she may prevail against him in pursuing him for her entertainment; for she wanting the same, and not being furnished by her husband, the Judge in law will modify and decern the husband to pay; and albeit he might quarrel the bond for want of his consent and subscription, yet it is not proper to allege and oppone her own deed for a sum, so profitably converted to her use; notwithstanding whereof the Lords ordained the wife to be answered of the money consigned, and found that the creditor upon that bond could not pursue the Lady, until he had pursued the husband, and after the discussing of the husband, they would find what was due to be done to the creditor by either of them, and in the next time found no process against the wife upon the foresaid bond.

Act. Aiton.

Alt. Lermouth & Gilmour.

Clerk, Gibson.

Fol. Dic. v. 1. p. 397. Durie, p. 477.

1630. March 12. SCOUGALL against DOUGLASS.

ALEXANDER SCOUGALL having recovered decret against Alexander Douglass and Margaret Inglis his spouse, for the sum of L. 28, for the price of wares confessed to be received by her upon her oath, being referred thereto, and also her husband holden as confest thereon; and she being charged to pay after her husband's decease, and suspending, the Lords found, that that decret, albeit given against herself, and for gear confest to be received by herself, and albeit the sum was so small, yet being recovered against her and her husband, and she having a husband at the receipt of the goods, ought to be executed against her husband's heirs and executors, and not against herself, and therefore suspended the charges against her.

Clerk, Gibson.

Fol. Dic. v. 1. p. 397. Durie, p. 506.

* * Spottiswood reports the same case :

JOHN SCOUGALL having pursued Alexander Douglass macer, and his wife, Margaret Inglis, for L. 60 owing by them to Patrick Craig, to which he had right as donatar to Patrick's escheat, referred the truth of the debt to their oaths; Alexander was holden as confest, and his wife by her oath granted them

No 152. to be owing L. 26 to Patrick. After her husband's decease, John Scougall's executors pursued her for payment of that L. 26 which she had granted. THE LORDS ' would not sustain action against her for that debt, granted by her in her husband's time,' seeing she could neither prejudge her husband nor herself by it.

Spottiswood, (HUSBAND AND WIFE.) p. 158.

1631. *March 18.*

HOWISON *against* LADY LAURIESTON.

No 153.

JOHN HOWISON having pursued the Lady Laurieston for L. 63 for meal and malt furnished to her in her husband's time, when he was absent at Court; the LORDS would not burden her with the payment of it, although it was for provisions to her house; and albeit it was *alleged* that she had a factory from her husband in the time, giving her power to uplift his rents, pay his debts, and transact therefor, and generally to do all his business.

Fol. Dic. v. 1. p. 397. Spottiswood, (HUSBAND AND WIFE.) p. 158.

1672. *July 10.*

NEILSON *against* GUTHRIE.

No 154.

A MARRIED woman found liable for her wedding clothes, taken off by herself before the marriage; for, though this furnishing was *in rem versum* of the husband and not of the wife, yet here she was bound by her own contract entered into before marriage.

Fol. Dic. v. 1. p. 397. Stair.

. See this case No 94. p. 5878.

S E C T. H.

Furnishings to a wife who has a separate aliment.

No 155.

A married woman found liable for drugs furnish-

1667. *December 19.* ADAM GAIRNS *against* ELIZABETH ARTHUR.

ADAM GAIRNS as assignee constituted by Patrick Hepburn, pursues Elizabeth Arthur for the drugs furnished to her, and her children at her desire; it was *alleged* absolutor, because she was, and is clad with a husband, and the furni-