

*jure mariti*, and Laurieston's executors could only have right to pursue therefor. It was *replied*, That Laurieston's executors did not compear nor crave preference; and if they were compearing, they could not crave preference upon the foresaid ground, because the assignation bearing absolute warrandice, Laurieston and his executors could never quarrel the same as not being intimated, they being obliged in law to make good the Lady's assignation to the pursuer.—THE LORDS did repel the defence in respect of the reply, but ordained the pursuer to grant a receipt, with sufficient warrandice, against the Laird of Laurieston, or any representing him.

No 14.

*Fol. Dic. v. 1. p. 385. Gosford, MS. No 644. p. 375.*

1682. January 26. BARCLAYS *against* PEARSON.

No 15.

THE creditor in a bond dying after the term of payment of the principal, and before the term of payment of annualrent; the bond was found moveable as to the relict, the payment of annualrent being that which makes it heritable *quoad relictam*; but a clause to infeft would have made the bond heritable *ab initio*; and it is debateable, if a clause secluding executors would exclude the wife from her part of a bond, otherwise moveable, albeit it would cut off the fisk and executors.

*Fol. Dic. v. 1. p. 385. Harcarse, (BONDS.) No 171. p. 38.*

1684. March.

Mr WILLIAM GORDON, Advocate, *against* Sir PATRICK OGILVIE of Boyn.

No 16.

A BOND heritable by a clause to infeft, assigned to a woman, her heirs and executors, found to remain heritable in the assignee's person, and not to fall under her husband's *jus mariti*.

*Fol. Dic. v. 1. p. 385. Harcarse, (BONDS.) No 195. p. 44.*

1693. January 19.

SCOTT, and THOMAS FENDAR, now her Husband *against* PARKS, her Children.

No 17.

THE LORDS found, seeing there was no contract of marriage between her and her first husband, that his putting her name in the liferent of a bond of four thousand merks could not be ascribed in satisfaction of her third of the moveables *pro tanto*: But, as to the 2d point, found, though a charge of horning, on a bond bearing annualrent, made it moveable *quoad* the nearest of kin, and

Found, tho' a charge of horning, on a bond bearing annualrent, made it moveable