

No 1.

and if he was in possession, the same was because he was servant and collector of fundry of the Earl's rents, as chamberlain to him, amongst which he intromitted with the said tiend, as said is, *more quo supra*, which he disposed again at the said Earl's command, and to his utility and profit unto his decease; and made compt and reckoning thereof to the said Earl, and others having power thereto of him, or by him, *et non alias*.—Which reply and allegiance of the said Lady, was admitted by the LORDS, and referred to her probation.

*Colvil, MS. p. 4.*

1575. June 16.

MURRAY and Tenants *against* LIVINGSTON.

No 2.

A husband divorced for adultery, cannot revoke a gift made to his wife, *stante matrimonio*.

TENANTS of certain lands pursued Henry Murray of Dunfermline, and Marion Livingston, for double poinding, to see which of them had most right thereto. The said Henry *alleged*, That he gave the lands to the said Marion, being his wife, not by contract of marriage, but of good will after the marriage; which thereafter he revoked; and, therefore, he should be answered of the duties of the said lands. And the said Marion *alleged*, That Henry infest her *constante matrimonio* betwixt them; and now the marriage was dissolved by sentence of divorce given against the said Henry, for adultery committed by him: And albeit he had revoked the infestment given after the decret of divorce, which he did not the time of the marriage, as now should not be admitted, because that he, in respect of the divorce, is *civiliter* dead; and, therefore, she should be answered of the duties of the said lands: Which allegiance of the said Marion was found relevant, and admitted by the Lords, and the tenants decerned to answer to her, of the mails and duties foresaid.

*Colvil, MS. p. 23.*

No 3.

A husband divorced for adultery, having executed a deed of revocation of a liferent of lands he had granted to his wife: to give effect to the revocation, he was bound to prove it was executed *before committing the crime*, as well as before sentence of divorce.

1576. July 9.

The Same Parties.

ANENT the action pursued by Christian\* Livingston against Henry Murray in Dunfermline, her sometime spouse, it was *alleged* by the pursuer, That there was a sentence of divorce given betwixt her and the said Henry: By the which sentence she was ordained to bruike her conjunct-fee, liferents, terces, and all other things due to her by virtue of the said marriage. It was *alleged* by the said Henry, That there were certain lands, that he had infest the said Christian in, in liferent, after the said Christian's marriage with him; the which liferent and infestment he had revoked; and now, after the divorce, she should not bruike the same before the sentence of divorce, and intending of the said action. It was

\* In the case above, the Lady is named Marion—The same person seems to be meant.