

to her husband, which she had omitted to do during his life, out of apprehension of displeasing him, and after his death, on consideration of the settlements in her favour in the last deeds; and therefore these ought not to be reduced to the prejudice of her executor, or else he ought to be allowed to recur to the stipulations in her contract of marriage.

*Answered*, That she had not revoked, either before the execution of the reducible deeds in her husband's lifetime, or afterwards; and she could not be allowed to take advantage of these deeds, on pretence that she had not revoked in consideration of them, considering the proof of the incapacity, and of the share she had in eliciting them.

“ THE LORDS adhered, and refused Binny's petition.”

Act. R. Dundas.

Alt. J. Ferguson.

Clerk, Kirkpatrick.

*Fol. Dic. v. 3. p. 287. D. Falconer, v. 2. No 43. p. 40.*

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SECT. V.

Whether Liferent Provisions to Wives *stante matrimonio* be revocable.

1623. February 12. WALLACE against M'DOUGAL.

IN an action of registration pursued by Wallace *contra* M'Dougal, of a bond given by M'Dougal to Wallace, obliging the debtor to pay the sum at a certain term, and failing of payment thereof, to pay annualrent therefor to the creditor and to his wife, and to the longest liver of them two, and after their decease to the heir of the husband; the husband being dead before the term of payment in the bond, this bond being desired to be registrated at the instance of the heir of the defunct, and at the instance of the husband's relict, to whom the liferent was conditioned by the bond, against the debtor;—the LORDS found, that it ought not to be registrated at their instance, seeing the man died before the term of payment, and so the sums remained moveable, and never became heritable by the foresaid clause, and consequently that the same would belong to his executors, and not to the heir nor relict.

Clerk, Hay.

*Durie, p. 45.*