

No 26. only the administration, but is *dominus actu*, and may dispose of the same even gratuitously, and the wife hath only right and interest *habitu*, which *exit in actum* at the dissolution of the marriage, her interest can reach no further than to the free moveables after payment of the husband's debts affecting the executry; *nam id solum nostrum, quod debitis deductis nostrum est*. Now bonds bearing annualrent are proper debts upon the whole executry.

THE LORDS found, That moveable bonds bearing annualrent, whereof the term of payment was past before the husband's decease, cannot affect the relict's share of the free gear, but affect the dead's part only in this case where the defunct had no children. *Vide* 20th June 1713, *inter eosdem*, No 5. p. 3945. See QUOD POTUIT NON FECIT.—RECOMPENCE.—TESTAMENT.

*Fol. Dic. v. i. p. 386. Forbes, p. 649.*

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S E C T. IV.

Rents or Profits of Heritable Subjects.

1582. June, PENNYCOOK *against* COCKBURN.

No 27.

THE current profits of a right having *tractum futuri temporis* arising during the marriage, fall *sub communionem*.

*Fol. Dic. v. i. p. 386. Colvill, MS.*

\* \* \* See this case, No 2. p. 5764.

1665. June 28. PITCAIRN *against* EDGAR.

No 28.

THE current annualrents of heritable sums falling due during the marriage, come under the communion, and accresce to the husband *jure mariti*.

*Fol. Dic. v. i. p. 386. Stair.*

\* \* \* See this case, No 13. p. 5775.

\* \* \* The like was found in the case Rollo *against* Brownlee,  
No 121. p. 2653.