

1676. June 20: MITCHELL *against* CHILDREN of LITTLEJOHN.

No 87.

A RATIONAL provision, granted to a second wife, was found effectual against the children of the first marriage, who, in their mother's contract, were provided to the conquest during the marriage.

Fol. Dic. v. 2. p. 287. Stair. Dirleton.

* * * This case is No 11. p. 3091. *voce* DEATHBED.

1684. November 7.

BEATRIX ANDERSON, and JOHN SIMPSON, her Husband, *against* ALEXANDER ANDERSON.

No 88.

ALEXANDER ANDERSON being obliged, by contract of marriage, with Beatrix Dyet, to secure all the conquest he should purchase during the time of the marriage, to himself and to his wife, the longest liver of them two, and to the bairns to be procreated betwixt them; which failing, to the said Alexander's heirs and assignees; the said Beatrix Dyet, Alexander's wife, being deceast, his daughter and child of the marriage is married to one Simpson, and in her contract of marriage the father contracts 3000 merks of tocher, but the said contract bears not that it was in satisfaction of all she could crave. The said daughter and Simpson her husband, having intented process against the said Alexander Anderson the father, to make payment to her of the conquest in her mother's time, extending to 20,000 merks, at least to employ the same to be made forthcoming after his death; it was *alleged* for the defender, That by conception of the contract, the father remained still fiar, and consequently might dispone upon the conquest as he thought fit, and that the foresaid clause was a destination allenary, and so could take no effect. THE LORDS found, That there could be no process for the implement of the clause, until the father's death, and that notwithstanding thereof, the father might dispose upon the conquest for any rational or necessary use, and that it might be affected with his debts contracted, or to be contracted at any time during his life, and might be employed for any other rational or necessary use.

Fol. Dic. v. 2. p. 287. P. Falconer, v. 2. No 94. p. 64.

* * * Fountainhall reports this case:

1684. November 27.

BEATRIX ANDERSON, and John Simpson gunsmith, her husband, pursue Alexander Anderson, coppersmith in Edinburgh, her father, on this ground, that by his contract of marriage with her mother, he obliged himself to take all