

years, and that he could not be ignorant of the true condition thereof; seeing not only his father, but his nearest friends and relations were bound, and they did take burden for them: and, albeit he did live long after majority, yet neither he nor his father did ever revoke the same.

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1677. July 13. SIR GEORGE MORISONE and his CREDITORS *against* DAME AGNES BOYD, his Lady.

IN a double poinding, raised by the Earl of Southesk, as debtor, by bond, to John Morisone, son to Sir George; in place of a bond, whereby the Earl of Caithness and the Lord Sinclair were debtors to the said Sir George for the like sum; by which bond Southesk became obliged to pay to the Lady the annualrent during her lifetime, as an aliment, and to the said John Morisone, the principal sum, after her decease; Southesk, being pursued for the annualrent at Sir George's instance, as likewise at his creditors' instance, as having arrested:—

It was ALLEGED for Sir George, That he ought to be preferred to the Lady for the annualrent, because it belonged to him *jure mariti*, and during his lifetime his wife could have no right as liferenter.

It was ANSWERED for the Lady, That, notwithstanding, she could have the only right; because Sir George, her husband, being resolved not to live *in familia* with his Lady, did, with consent of his son and her friends, provide her to the annualrent of the said sum for an aliment, with an express provision that none of his creditors should affect the same; and so neither he nor his creditors, by any diligence or arrestment, could take away her right, which was an aliment, and in law not arrestable.

The Lords, as to the husband's interest *jure mariti*, did prefer the Lady; upon that ground, That she being provided to an annualrent of that sum, for entertainment of herself and two children and servants, it was but a reasonable provision; and, therefore, during their separation, which was the cause of that aliment, he could not crave any part thereof *jure mariti*: but, as to the interest of creditors who were prior to the said transaction, that point was not decided, but remitted to some of the Lords to settle them.

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1677. July 18. JOHN MURRAY, Merchant in Edinburgh, *against* GEORGE MONTEITH.

IN a bill of suspension of a decret, recovered before the Bailies of Edinburgh, at the instance of Thomas Dewar, skipper of a ship called the Golden Crown of Burntisland; who being decerned to make forthcoming a sixteenth part of the said ship to John Murray, as creditor to Hector M'Kenzie, who was one of the owners; and who had given him an assignation for his payment to one-sixteenth part of the said ship, which he had intimated not only at the skipper's dwelling-house, but likewise at the market-cross of Edinburgh and pier and