

No 113. to carry on the process, and condescended on the person he meant, with certification, if he succumbed, they would consider the infamy, what it should import, if it be found a calumnious defamation.

Fol. Dic. v. 1. p. 394. Fountainball, v. 2. p. 92.

1728. November. LADY KIRKHOUSE *against* Her HUSBAND.

No 114.

CASSIE, elder of Kirkhouse, in the year 1715, was attainted of high treason, and his estate was adjudged to his son, upon this *medium*, that it being a tailzied subject, the father had incurred the irritancies, and fallen from his right before his rebellion. The Lady Kirkhouse, spouse to Kirkhouse elder, in her contract of marriage was provided to the liferent of 1000 merks, to take place after her husband's decease; but after the fee was established in her son, having insisted against her husband for a separate aliment, upon the head of mal-treatment, she not only obtained her son to be made liable for a separate aliment, but likewise upon a clause in the act 62, Parliament 1661, obtained, that the adjudgers upon the estate should be obliged to restrict themselves to their annualrents during the legal, that there might be room for her to affect the rents of the estate for her aliment. See APPENDIX.

Fol. Dic. v. 1. p. 394.

S E C T. IV.

Whether the Husband bound to provide his Wife in a Jointure.

1686. December.

Dr BORTHWICK'S WIFE *against* The DOCTOR Her HUSBAND.

No 115.

IN a pursuit at the instance of a wife against her husband, concluding, That, in respect he had married her very young, without contract or advice of friends, and got 12,000 merks of portion with her, and had now deserted her, and was now dilapidating his fortune, he might be decerned to secure a liferent to her, and provisions to her children,

THE LORDS found, That the defender could not be so decerned; but that the pursuer must rest upon her legal provisions of terce and third.

Fol. Dic. v. 1. p. 394. Harcarse, (CONTRACTS OF MARRIAGE.) No 382. p. 99.