

No 319.

natural possession, seeing his wife's life use was reserved, and cannot summarily be put therefrom, *hoc ordine*, upon a supplication without process. *2dly*, If he were in a process, he would exclude the bairns, because the disposition being made after his contract of marriage and proclamation, no deed of his wife's could then prejudice him; and as for his ratification, he did it to satisfy his wife's importunity, but being granted to a wife during the marriage, he may and does recal it, it was *answered*, That it was not a donation to his wife, but to his wife's children, which no law makes revocable.

Which the LORDS sustained, and found the husband could not recal his ratification, not being in favour of his wife, but in favours of her children, at her desire.

*Fol. Dic. v. 1. p. 409. Stair, v. 1. p. 581.*

1686. February 2. & 3. SOMERVILLE *against* PATON.

No 320.

A DONATION by a wife to her husband's eldest son, though *eadem persona cum patre*, was not found revocable as a donation *inter virum et uxorem*.

*Fol. Dic. v. 1. p. 410. Fountainball.*

\* \* See this case, No 193. p. 5990.

1728. February 1. SANDERS *against* DUNLOP.

No 321.

A MAN having disposed his moveables to a third party, reserving his life use, with a power and faculty to his wife to alter, &c. this disposition, though nominally in favour of the third party, yet truly in favour of the wife, found revocable by him even after the wife's death, being no better than a cover *et fraus facta legi*; and here the wife's faculty to alter was a virtual fee, and the case the same as if the disposition had been directly in favour of the wife, with a substitution to the third party, in which the fee, established in the wife, being ever subject to revocation, there could be no pretence of a *jus quæsitum tertio* by her death. See APPENDIX.

*Fol. Dic. v. 1. p. 410.*

1776. August 10. SCOTT *against* LADY CRANSTON.

No 322.

IN the marriage settlement between Lord and Lady Cranston, the latter, who brought a large fortune to her husband, was provided to an annuity of L. 700 out of his Lordship's estates, both in England and Scotland, and particularly out of the lands of Crailing and Wauchope in the later; in virtue of which