

No. 7.

or their dying before majority or marriage, the fee of the equal half of the 7000 merks and conquest to the wife, and the liferent of the whole conquest, all which is assigned to her *per verba de presenti*; both wife and children survived the husband, and one child survived the wife; and the wife having named her second husband her executor and universal legatee; it was found that the wife was a proper creditor for the half of the 7000 merks and half of the conquest, and that the same fell under her general disposition to her second husband of all debts due to her, albeit the condition had not existed till the death of the child who survived her, 19th February, 19th June, and 18th July 1735; and this was affirmed upon an appeal 27th April 1738.—And the husband having on death-bed given his wife a bond of 8000 merks, (by and attour her former provisions) payable in case of his children's death before marriage or majority; this bond the Lords also sustained, and found the same conveyed by the general disposition, (for they thought the father who left all to the children might substitute to them a part notwithstanding of the provision in the contract of marriage,) and they found that there was no place for a legitim in this case, where the whole present stock and conquest was provided by the contract of marriage, though it had not the clause in satisfaction of their legitim, 19th June, 18th July 1735, 18th and 24th February 1736. But the whole of this last was reversed upon the appeal, and the children were found entitled to a legitim. *Vide* all the interlocutors and the judgment in a petition, 29th June 1738, the last paper in this case.

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1738. *July 20.* BANNERMAN *against* SIR ALEXANDER BANNERMAN.

No. 8.

A WIFE in her contract of marriage assigns her bond of provision by her brother, dated of for 1000 merks, with power to the husband to call for the bond of provision from all havers thereof, which sum the husband and his cautioner, with the husband's stock, were bound to employ for the wife and children. The Lords found the tocher presumed paid.

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1738. *July 25.* JEAN, &c. NISBET *against* NISBET of Dirleton.

No. 9.

DIRLETON, by his contract of marriage with his second Lady, became bound against the next term to provide L.100,000, to bestow the same