

The decision, as I thought, proceeded chiefly upon this ground,—That the widow, doing diligence within three years of the defunct's death, would be preferred by the Act of Parliament to the creditors of the heir;—that, as in that case the annuities would be reckoned the debt of the tailyer, it would be extremely hard, if, in so favourable a case as this, they should not be reckoned so too.

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1739. *January 17.* FRANCIS SINCLAIR *against* SHAW and OTHER CREDITORS of Her Husband.

[Elch., No. 11, *Arrestment*; and No. 10, *Husband and Wife*; Kilk., No. 4, *Arrestment*.]

IN this case there were three questions debated. *1mo*, Whether, when a wife enters into a submission with respect to a claim which she has as heir to her father, and the arbiters decern in a sum payable to the wife and husband for his interest, that sum be arrestable or not by the husband's creditors?

The Lords found, That the wife in that case was fiar, and the husband had only a right to the annualrents, *jure mariti*; so that the principal sum was not arrestable by his creditors.

*2do*, When a wife makes a donation to her husband, and his creditors afterwards affect the subject gifted, with diligence,—whether, in case of a revocation by the wife, the diligence falls to the ground?

The Lords found, That the maxim, *resoluto jure dantis*, &c. obtained here; that, the husband's right being annulled by the revocation, the rights flowing from him, whether voluntarily or by legal diligence, behoved to fall in course, in the same manner as if the husband's right had been qualified by a back bond.

*3tio*, Whether the *jus mariti* was a subject arrestable; or whether, not only the bygone and current annualrents of the principal sum, mentioned in the first case, were arrestable, but likewise the future?

The Lords ordered memorials to be given in upon this third question; it was found only adjudgeable. As to this last point, and what subjects are arrestable, what adjudgeable,—see *November 18, 1742, Creditors of the Robertsons in Glasgow*.

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1739. *January 12.* CREDITORS of SIR ROBERT BAIRD *against* RACHEL LIBERTON.

[Elch., *Escheat*, No. 2.]

THE question here was, Whether the donatar of a liferent escheat was obliged