

1781. November 28.

RIDDEL against DALTON.

No 51.

DALTON, in a postnuptial contract of marriage, bestowed on Riddel his wife, in the event of her surviving him, a liferent of his whole effects, heritable and moveable. On the other part, 'she, in the event of her predecease,' assigned to him her share of the goods in communion, her paraphernalia, and a liferent of a house belonging to her, stipulating at the same time an annuity, and a small sum of money, to her next of kin.

Dalton died before his wife, and her executors, after her death, laid claim to the half of his moveable effects, in name of widow's part, which was nowhere expressly discharged in the contract of marriage.

THE LORDS found, "That the wife's acceptance of the provisions in the marriage-contract, virtually implied a renunciation of the *jus relictæ*."

Lord Ordinary, Braxfield. Act. Crosbie, Rolland. Alt. Ilay Campbell, H. Erskine.
Clerk, Home.

Ed. Dic. v. 3. p. 302. Fac. Col. No 9. p. 18.

1791. November 29.

ANNE ELISABETH JANKOUSKA, *alias* GRIEVE, against ANDREW ANDERSON and Others.

No 52.

MRS JANKOUSKA, a native of Russia, was married to Tamez Grieve, who was possessed of considerable funds both in Russia and England, and was also proprietor of a small landed estate in Scotland.

Mr Grieve executed a settlement in the English form, giving to his wife, in case of her surviving him, an annuity of L. 800 out of his Russian property; a house at Petersham near London, and a sum of L. 2000, secured by mortgage in England. He also directed his Scots estate to be sold, and the price to be liferented by Mrs Grieve. But owing to the form of the deed, this last part of it became ineffectual.

Mrs Jankouska, therefore, claimed a terce out of her husband's lands in Scotland; but in this she was opposed by Anderson and other heirs of her husband, who

Pleaded, To prevent exorbitant settlements in favour of wives, it was provided by the statute of 1681, cap. 10. 'That in all time coming, where there shall be a particular provision granted by a husband in favour of his wife, either in a contract of marriage, or some other writ before or after the marriage, the wife shall be thereby excluded from a terce out of any lands or annualrents belonging to her husband, *unless it be expressly provided* in the contract of marriage, or other writ containing the said provisions, that the wife shall have

A relict who had accepted conventional provisions in an English deed, was allowed also the terce of a Scotch estate. See Synopsis.