

S E C T. VII.

Obligations by Wives relative to their own Property.

1611. November 22. STEVEN and WADDELL *against* WAUCHOPE.

No 188.

IN the action pursued by Steven and Gilbert Waddell in Leith against Wauchope, the LORDS found that a bond, whereby the husband as heritor, and the wife as liferenter, had bound them to infeft Wauchope in an annualrent furth of a tenement whereof Steven was liferenter, and to pay as well not infeft as infeft, was valid to bind the wife Steven to pay the said annualrent for all years since her said husband's decease, and during his lifetime.

Fol. Dic. v. 1. p. 400. Haddington, MS. No 2307.

1612. June 9.

LAIRD of Kinnaird and EARL SHALL, *against* HELEN SHARP, Goodwife of Pitlithie.

No 189.

A MAN and his wife being bound with one consent and assent, to give infeftment of the wife's conjunct-fee lands, or of an annualrent furth thereof, the husband deceasing, the wife may be charged upon the contract, or pursued *personali actione*, to make payment of the annualrent, or duty of the land.

Fol. Dic. v. 1. p. 400. Haddington, MS. No 2483.

1626. March 24.

GREENLAW *against* GALLOWAY.

No 190.

BOND of borrowed money by a husband and wife, containing obligation upon the wife to pay annualrent out of her lands, but no formal obligation to infeft the creditor in her lands, found null *quoad* the wife: For though a woman may sell or burden her proper lands, with her husband's consent, it must be done *debite modo*.

Fol. Dic. v. 1. p. 400. Durie.

* * * See this case No 162. p. 5957.