

S E C T. VI.

Moveables accruing to the Wife during Marriage.

1614. *January 8.* LAWSON *against* BANNATYNE.

No 35.

A legacy left to a married woman falls to her husband.

IN an action betwixt Elizabeth Lawson, daughter to Margaret Brown, Lady Humble, and dame Elizabeth Bannatyne, Lady Humble and Ormiston, the LORDS found; that the husband of the said daughter might discharge the legacy left to her in her mother's testament, after her decease, *quia legatum transit in hæredes mero jure*, and he is *dominus omnium bonorum*.

Fol. Dic. v. 1. p. 387. Kerse, MS. fol. 127.

1627. *June 15.* NICOLSON and LYLE *against* LYLE.

No 36.

A bond granted to a wife payable the first term after her father and mother's death, with interest from that term in case the principal sum should not be then paid, was found moveable before the term of payment, and to belong to her husband and his executors, tho' he died before his wife, and before the term of payment.

IN an action at the instance of Robert Nicolson and Lyle his spouse, who was first married upon the Laird of Broxmouth, against one Lyle, son and heir of umquhile ——— Lyle of Stanypeth, his father, for registration of a bond made by his said father to the said Lyle pursuer his sister, obliging him to pay a sum therein contained, at the first term after his father and mother's decease; and from that term to pay annualrent, in case the principal sum were not then paid, ay and while the payment thereof;—the defender compearing and *alleging*, That this pursuer, to whom the said obligation was made, had no right to the said sum, but the same pertained to the executors of the said umquhile L. Broxmouth her first husband, in whose goods the same behoved to be reputed to have remained; and so having right to all sums pertaining to her, the said obligation being granted by the brother to the said pursuer his sister, after that the said pursuer was married with the L. of Broxmouth, and during the time of their marriage;—the LORDS found, that this obligation, and the sum therein contained, pertained to the executors of the L. Broxmouth her first husband, in whose time the same was acquired; and that she nor her second husband had no right thereto, and found the said sum to be a moveable sum, and so to pertain to the executors of the said first husband, albeit the term of payment was conferred to the time of the decease of the mother of the wife, acquirer of the obligation, who survived the L. of Broxmouth, by whose surviving of him, and that the payment was conferred to a time after the mother's decease, and so to a time after Broxmouth's decease, who deceased before her, and that the pursuer had a clause of infefting of her and her heirs in an annualrent, in case