

No 29.
ing the heirs
or executors
of her de-
ceased hus-
band. *Noxa
caput sequitur.*

tion had been pursued against the defender while her husband lived, he behoved to have been called ; sicklike now being pursued against her after his death, some to represent him ought to be called. THE LORDS repelled the allegiance, and sustained the process against the woman who was libelled to have committed the fact ; and found no necessity to summon the heirs or executors of the defunct's husband, seeing the fact was only pursued against the woman's self, as committer, *et noxa caput sequitur.*

Act. —.

For the Defender, *Miller.*

Clerk, —.

Fol. Dic. v. I. p. 134. Durie, p. 30.

1627. June 29.

BAILIE against ROBERTSON.

No 30.
Found, no
process, a-
gainst a wo-
man who was
married after
executing
the principal
summons,
because her
husband was
not called for
his interest
in the se-
cond sum-
mons of con-
tinuation.

IN an action betwixt Margaret Bailie and Janet Robertson, the LORDS found no process against the defender, because she was clad with a husband, and he not summoned ; which allegiance was sustained, albeit she was married since the executing of the principal summons, because she was married before the execution of the second summons of continuation ; so that her husband should have been summoned to compear by the said citation ; and albeit the act and letters could not have been directed against him, seeing he was not in the principal summons ; yet the pursuer, by supplication to the Lords, might have obtained warrant to summon him, by virtue whereof he might have been summoned for his interest, likeas the pursuer might raise a new continuation, and give in a supplication to summon the husband for his interest, as said is.

Clerk, *Hay.*

Fol. Dic. v. I. p. 134. Durie, p. 309.

* * * See HUSBAND and WIFE.

* * * When this Work had proceeded thus far, 20th August 1802, the last date of any case published in the Fac. Col. was July 1798. Cases subsequent to that date, relative to the subjects of this Volume, will be found in the Appendix.

The Title CITATION is continued in Vol. 6th.