

No 36.

1675. December 10. BRYCE and her SPOUSE *against* KIRKPATRICK.

EDWARD KIRKPATRICK having obtained decret against Janet Bryce, she and her husband suspend on this reason, that the Sheriff found a promise probable by witnesses. It was *answered*, That the suspender having granted a bond in the first husband's time, and promising in her viduity to pay it, without quarrelling the nullity, the witnesses were receivable, in respect of the adminiculation of the writ.

THE LORDS found, that seeing the bond was null, given by a wife *stante matrimonio*, her promise to fulfil it in her viduity was not probable by witnesses.

Fol. Dic. v. 2. p. 216. Stair, v. 2. p. 378.

. Dirleton reports this case :

A WOMAN being pursued upon a bond, and having *alleged* that it was null, because she was *vestita viro*; the *reply*, That she promised payment after her husband's decease, though the sum was only L. 100 Scots, was found not to be probable by witnesses.

Reporter, *Glendoich.*

Dirleton, No 317. p. 155.

1702. February 19.

ISABEL LIVINGSTON and JOHN NAIRN *against* HELEN LIVINGSTON.

No 37.
A disposition originally blank in the name, and filled up with new ink, was reduced, unless it could be proved, that it had been filled up, and so read to the grantee in *liege poustie*.

TILlicouLTRY reported Isabel Livingston, and John Nairn her husband, against Helen Livingston her sister, and relict of William Crawford.—It is a reduction of a disposition of a tenement of land made by Isabel Simpson, their mother, in favour of the said Helen, at the instance of the said Isabel, as heir-portioner served to her mother. The reasons were, that, by ocular inspection, the name of the receiver of the disposition has been originally blank, and appears to have been lately filled up with new ink, though it is dated in 1671; that it has been designed for a man, it all along bearing *his*, which is now vitiated, and made *hers*; that, for 25 years the mother lived, there was never a syllable of this right, nor for two years after, and was found blank in the name among the mother's papers by the said William Crawford, who intromitted therewith, and has been filled up by him with his wife's name, and so was never a delivered evident, nor did so much as bear a reservation of liferent to the mother, the granter, and certainly has either been filled up on death-bed, or after her decease; and one of the two subscribing witnesses is not designed.—*Answered*, Its being blank is of no moment, being long before the act of Parliament discharging blank writs; neither does the vitiation import, not being *in*