

1676. July 5.

A. against B.

No 168.

A BOND granted by a woman *stante matrimonio*, for payment of a sum of money, being ratified judically; it was found, that the ratification did not bind her, being of a deed null in law, though it was judicial, being likewise *stante matrimonio*.

Fol. Dic. v. 1. p. 398. Dirleton, No 371. p. 182.

1678. January 23.

BRUCE against PATERSON

No 169.

AGNES PRINGLE being heir apparent to some tenements, gave a bond of L. 10,000 to Captain Paterson, with consent of her husband, who gave a back-bond, that he should only make use of this bond for adjudging the lands of Whitehaugh, whereunto she was apparent heir to her uncle; and that he should dispoise the half of the land to her, and retain the other. Thereafter, she gave another bond to David Bruce, who, in her name, pursues reduction of the first bond, as being null, granted by a wife *stante matrimonio*. It was *answered*, That wives may dispoise their heritage effectually *stante matrimonio*, with consent of their husbands, and the giving bond to have no effect, but to affect their heritage, is equivalent to a disposition; yea wives their other bonds in relation to their heritage, are valid.

A wife's bond found valid tho' granted without consent of her husband, she having taken a back-bond restricting it to execution against land of which she was apparent heir.

THE LORDS sustained this bond, in respect of the back-bond, whereby it had only the effect of a disposition.

Fol. Dic. v. 1. p. 399. Stair, v. 2. p. 600.

. Fountainhall reports the same case.

This is a reduction of a bond and comprising, because it was granted by Agnes Pringle for borrowed money *stante matrimonio*, and so was null *ope exceptionis*. *Alleged*, It was an apprising of her uncle's lands, to which she was apparent heir, and he had given her a back-bond, discharging all personal execution, and declaring the design was only to comprise that estate, and obliging him to denude himself of the one half in his favours. THE LORDS found the allegiance relevant and proved by the back-bond, and assoilzied him from the reduction, and decerned him to denude of the half. Yet the Lords argued among themselves, *imo*, That this bond was null not being judicially sworn; *2do*, She had another more habile way to convey, viz. by a disposition, and the back-bond might have been taken by her husband without her knowledge, and such a contrivance might soon evacuate the privilege of revocation.