

if any other tenant came to it. Though the preparative be bad, the craver's oath was taken for proving her malice, &c.; and so it was of the nature of a *mala fides*.

No 286.

Fol. Dic. v. 1. p. 408. Fountainball, MS.

. Stair reports the same case :

ONE ——— in Glasgow, having obtained letters of lawborrows against a wife in Glasgow, who had threatened to burn his house, which he had deponed upon oath, and having denounced her and craved caption, the clerks of the bills refused to give out caption, because of the privilege of wives not to be taken by caption.

THE LORDS ordained caption to proceed, seeing the horning was not upon a debt, but upon the wife's delinquency and disorder, threatening to burn the man's house.

Stair, v. 2. p. 666.

1682. *March.*

GAY against HERBERTSON.

No 287.

A WIFE having quarrelled her consent *stante matrimonio* to a bond of 2000 merks granted to her husband's nephew, when the husband was on deathbed,

Answered; A wife might validly dispoise her rights to a third party; and the husband being *in lecto*, she had a right to thirds.

Replied; Whatever might be said had she dispoised *principaliter*, she here but consents. *2do*, A wife has no right to thirds till after the dissolution of the marriage.

THE LORDS found, that the wife's consent was not a *non repugnantia*, but that she might quarrel her consent, and claim her whole share, although she granted this consent in contemplation of a disposition of the whole goods, which disposition the nephew renewed *re integra*.

Harcarse, (STANTE MATRIMONIO.) No 870. p. 247.

1682. *November.*

FIN against FIN.

No 288.

THE LORDS inclined to find, that a wife subscribing consent to a disposition of lands, whereof she had the liferent, and not judicially ratifying the same, might revoke, and that *metus reverentialis* was a sufficient ground of fear in wives who had a privilege; for positive *vis et metus* (which is a common reason of reduction to every person) could scarce be proved by wives, who may be privately put under the just impressions of it when no witnesses are present. And when wives judicially ratify, the Judge is so jealous that they are over-