

- No 87. was found proper to the pursuer against his said mother, and against her said present third husband; and that it was not necessary for him to pursue the heirs and executors of the second husband therefor, seeing the action was proper against herself, she being then tutrix in these years, and consequently against her present husband.

Act. — —

Alt. Craig.

Clerk, Scot.

Durie, p. 443.

- No 88. 1663. February 18. DUNBAR against LADY FRASER.

A HUSBAND being pursued for the price of moveables intromitted with by his wife, *alleged*, That her former husband had got these moveables, and his successor should be liable, at least, in the first place; which was repelled, without prejudice to the present husband to pursue the successors of the former husband for repetition, as accords.

Fol. Dic. v. 1, p. 392. Stair.

* * See this case case, No 5. p. 2367.

- No 89. 1678. January 23. WILKIE against STEWART.

AFTER the wife's death, the husband, though decree had been taken against him, is not liable for her debts, although *lucratus* by the marriage, until her representatives be first discussed.

Fol. Dic. v. 1. p. 392. Stair.

* * See this case, No 80. p. 5868.

- No 90. 1683. February 27. EARL of LEVEN against MONTGOMERY.

A HUSBAND being convened for payment of his defunct wife's moveable debts, *in quantum factus erat locupletior*, the LORDS found the husband liable *subsidiarie* only, the heritable estate being first discussed and exhausted, in regard that the *jus mariti* being equivalent to an assignation *inter vivos*, the creditors could have no ground of quarrel, so long as there was sufficiency remaining for their payment.

Fol. Dic. v. 1. p. 392. P. Falconer, &c.

* * See this case, No 43. p. 5803. and No 41. p. 3217.