

1685 and 1686. SIR JOHN RAMSAY OF WHITEHILL and ANNA CARSTAIRS *against*  
CARSTAIRS OF KINNEUCHAR.

1685. *November 24.*—THE case of Sir John Ramsay of Whitehill and Anna Carstairs, his spouse, against Carstairs of Kinneuchar, was debated *in præsentia* and decided. The Lords considering that, by the decret 1664, the aliment is constituted to the mother and daughter indefinitely, (without declaring their shares,) and that it is thereby appointed that the wife's infestment shall be as effectual for the said aliment as for her jointure in case her husband were dead, (he being furious;) they found the mother could not restrict the aliment in prejudice of her daughter, after her marriage, by her contract of restriction, but that the pursuers have right to 700 merks, as the equal half of 1400 merks, for all years after the marriage; and sustained the defence, that the mother did aliment the daughter, and likewise the allegiance, that the daughter, pursuer, is executrix to her mother, and so is liable to warrant the transaction made by her in so far as the executry goods extend: and also sustained the allegiance, that Sir John Ramsay has homologated the said contract by his discharge: and assigned a day for proving. And the discharge being produced, and advised by the Lords on the 16th of December, they found the pursuers had homologated the contract of restriction by granting that discharge; and therefore assolied the defender from any superplus aliment acclaimed more than is contained in the contract of restriction. *Vide more, 2d January 1686.*

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1686. *January 2.*—Sir John Ramsay gave in a bill reclaiming against the interlocutor *supra*, 24th November 1685, alleging that he and his Lady had only discharged what was due to her as executrix to her mother, but not the half of the annuity due to her *jure proprio*, and so had not homologated the contract of restriction.

The Lords refused the desire of this bill. The President was clear; though he had been Sir John Ramsay's advocate in this same cause, and gave him hopes that he might gain it.

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1686. *January 5.* DICK OF GRANGE *against* MURRAY OF SKIRLING.

THE case of Dick of Grange and Murray of Skirling was heard in presence. There being a wadset of some lands affected with a back-tack, under an irritancy that it should expire if two terms run in the third unpaid; Grange's mother, to prevent this, paid the back-tack duty, and before her death assigned this to her son. Afterwards the three terms' failie being like to be incurred; Grange offering to pay it, Skirling alleged he had no interest. ANSWERED,—*1mo*, Any may purge an irritancy. *2do*, He had an interest; for, if he did it not, he would lose the money formerly paid out by his mother.