

place it at interest. The rational presumption, however, as already said, is quite on the other side, and ought to be decisive of the question, as to the effect of the action for payment.

As to the L. 50 Sterling, in which the arbiter found Dunstaffnage liable, on account of the two additional bonds of provision to Lillias Campbell, this sum can in no shape be called heritable. It was not secured on bonds; for the bonds had been reduced; but it was a claim in equity competent to the wife, and consequently to her husband; and, as the sum awarded on that account was undoubtedly moveable, it must be covered by the arrestment.

“THE LORDS altered the Lord Ordinary’s interlocutor, and preferred Alexander M’Kenzie, the trustee.”

Act. *Ilay Campbell.*

Alt. *Al. Bruce.*

Clerk, *Kirkpatrick.*

*Fol. Dic. v. 3. p. 278. Fac. Col. No 35. p. 90.*

1776. November 27. LESLYS against ABERCROMBY.

A MINISTER being sued by the nearest of kin of his deceased wife, for her half of the goods in communion; urged, That a bond he had granted to the collector of the widow’s fund must be deducted from those goods, upon this ground, that it is payable not only upon his the incumbent’s death, but on his translation, deprivation, or resignation; and, therefore, the payment of it was not necessarily suspended till the dissolution of the marriage, but might have happened during the existence of it.

THE LORDS repelled the defence.

In the same case a similar claim of deduction, from the goods in communion, was made by the defender, on account of the window-tax falling due during the subsistence of his marriage; on this ground, That though, by special statute, the clergy have a temporary relief from this tax, the collectors not being made chargeable with the arrears due by them, yet the ministers themselves are not discharged; the burden still hangs over their head, and they are never secure against a demand. In such a situation, the arrears of this duty must be considered as a debt affecting the goods in communion. The pursuers offered security to relieve the defender of these arrears of tax if ever they should be claimed.

THE LORDS repelled the defence. See APPENDIX.

*Fol. Dic. v. 3. p. 282.*

No 19.

No 20.

Bond by a minister to the widow’s fund.

His arrears of taxes.