

The cause was reported by the Lord Ordinary ; when the LORDS repelled the defence.

No 73.

A reclaiming petition against this judgment was refused without answers.

Reporter, *Lord Grange.* Act. *Solicitor-General Blair.* Alt. *C. Hay.* Clerk, *Colquhoun.*
S. *Fol. Dic. v. 3. p. 281.* *Fac. Col. No 232. p. 360.*

SECT. II.

Effect of the Dissolution of the Marriage, as to the Wife's
Moveable Debts.

1612. *June 23.*

KILLOCH *against* The EXECUTORS of the Sheriff of Murray.

No 74.

ANE decret obtained against an heir portioner and her husband for his interest, will not have execution against the husband or his executors, if he was divorced frae his wife in his lifetime, because the divorcement makes separation, and makes the wife's debts to follow herself, specially if the divorcement was deduced in default of the wife.

Fol. Dic. v. 1. p. 390. *Haddington, MS. No 2463.*

1623. *February 27.* DOUGLAS *against* STIRLING.

JAMES DOUGLAS of Glaspen being married to Isobell Moffat, relict of James Stirling advocate, and the said Isobell being charged for her debt contracted before Glaspen's marriage, and he charged for his interest, and they both denounced, and the husband warded ; his wife deceasing, he summons the denouncers to see him put to liberty, since his interest was extinct by his wife's death ; which desire the LORDS thought reasonable. Thereafter it was *alleged*, That he was arrested by the said umquhile James Stirling's bairns, upon a decret for debt, wherein he was principal, and for an act of cautionry.—I *alleged*, That as a man could not be warded, not being at the horn, so he could not be arrested and retained in ward, unless he were rebel.

Fol. Dic. v. 1. p. 391. *Haddington, MS. v. 2. No 2788.*

No 75.

A husband, after his wife's death, cannot be imprisoned for debt contracted before the marriage ; and if he be imprisoned before her death, he will be set at liberty.