

1785. *November 17.* ALEXANDER NAIRN of DRUMKILBO *against* WILLIAM MERCER of ALDIE.

HUSBAND AND WIFE.

A debt, contracted for the benefit of the separate estate of a married woman, though of such a nature that the Husband was bound to discharge it, is still effectual against the Heirs of that estate.

[*Fac. Coll. IX. 360 ; Dict. 5860.*]

BRAXFIELD. There are cases in which a wife, *vestita viro*, may become personally liable. For instance, in selling an estate she grants personal warrandice : the estate is evicted,—she is bound in the warrandice. A wife may declare a fact, and that is all she does here. There is satisfying evidence that the one debt came in place of the other.

On the 17th November 1785, “ The Lords repelled the defences, and found Drumkilbo entitled to relief.”

Act. Ch. Hay. Alt. R. Dundas.
Reporter, Eskgrove.

1785. *November 22.* THOMAS GRIERSON and OTHERS *against* Messrs DOUGLAS, HERON and Co., CREDITORS of BROWN of BARTHARROW.

ADJUDICATION.

Act 1661. Adjudications, if within year and day, not affected by certification, in the Process of Ranking and Sale.

[*Fac. Coll. IX. 367 ; Dict. 274.*]

JUSTICE-CLERK. It would be very extraordinary if any creditor could have it in his power, by insisting in a process and obtaining a decret of certification, to exclude another creditor from the benefit of the Act 1661.

ESKGROVE. The case of *Craig* was different, for *there* year and day had intervened.

On the 22d November 1785, “ The Lords repelled the objections, and sustained the decrees of adjudication as valid, and found that the creditors therein are entitled to be ranked as adjudgers, in virtue of such decreets, in their proper place ;” adhering to the interlocutor of Lord Braxfield.

For Grierson,—A. Abercrombie. *Alt. Ch. Hay.*
Diss. Swinton.