

the Marriage 14 July 1709 Vallange of *Debitis contra Medowale* from
 Because the Obligation to renew the Renunciation in Favour of the Wife
 Assigning, is understood in the Terms of Law, she exercising the Faculty of
 assigning debits tempore before the Marriage; and the Receiver of the
 Assignation after the Marriage was considered only as a second or posterior
 Assigning competing with the Husband's first legal Assignation intimated
 by the Marriage. A Man sued for Money borrowed from the Wife
 Wife, was found liable to pay the same to the pursuer's Wife, albeit he
 offered to depone that as he had received the Money, so he gave bond for it at
 the Wife's Desire to a third Party, which Quality was not admitted; albeit the not receiv-
 ing thereof made the Borrower run the Hazard of double Payment, if the third Par-
 ty should Deny that the Sum in the Bond was the Money received from the W-
 seeing the Borrower from a Wife is in mala fide to give Bond for the Money
 any Person except to her self or to her Husband 21 Feb. 1679 *White contra*
 too. Yea the *ius mariti* was found to carry Right to a Sum assigned to a Wife
 she was clothed with a Husband, so as the Debtor, when charged to pay by the Wife
 after her Husband's Death, might compensate the same by a Debt owing to him by
 the Husband, without Necessity to instruct that the Assignation was delivered to
 the Wife and intimated stante matrimonio, for the Assignation being in the Wife's
 Hand, it was presumed to have been delivered at the Date thereof, and thereby became
 the Husband's *ius mariti* tho not intimated in his June 29 January 1663 *Bot contra*
 Nelson. If a Husband, even after the Marriage is dissolved, come to the Knowledge
 of any Debts or Goods that belonged to his Wife during the Marriage; he may still
 pursue for the same Stewart's Answer to *Drlet Doubts* tit *ius mariti* This Right
 of Property which a Husband has by Law in his Wife's Goods falling under the
 Communio; or some Part thereof, he may before the Marriage effectually re-
 nounce by Contract in Favour of his Wife; which Action stands good to ex-
 clude him and any Creditors claiming under him; seeing it keeps the Subject
 renounced as a *peculium* from falling under the Marriage-Communio. In
 which Sense Sir James Stewart (*ibid*) must be understood when he says, that the
ius mariti may be regulated per pacta nuptialia; and why may not a Wife be al-
 lowed to give to her future Husband by Agreement, something that would not
 fall under his *ius mariti* as an equivalent in lieu of what would belong to him by
 the Provision of Law? May a Husband who had not renounced his *ius mariti*; was
 not allowed to repete a Legacy given by his Wife in Money before her Death, tho
 that Money lying by his Wife belonged to him by his Right of Husband; in Respect
 she had disposed to him a considerable Estate in Bonds bearing Annuitment tho
 fell not under his *ius mariti* 14 July 1705 *Somervel contra Dundas* and *under*
 If a Husband may validly renounce that Part of his marital Right concerning
 the Property of Moveables that would accrue to him by the Marriage;
 much more may the Conveyance or Reservation of the Goods of married Per-
 sons, to take Effect after Dissolution of the Marriage, be by private Articles
 anterior thereto, ordered at their Pleasure. Thus a Clause in a Contract of Marri-
 age providing, that a Wife's Moveables should return to her after the Marriage

in case there were no Children, was found effectual to the Wife's Assigning, and not
 to return to the Husband by his *ius mariti*, as inconsistent therewith June 1670
Grays contra Weems
 The *ius mariti* doth not carry Right to the Stock and Property of the Wife's
 Herdage or heritable Rights, under which personal Bonds bearing Annuitment,
 which are heritable quoad *fiscum et relicum* are comprehended *lib. 32. Pars*
1. tit. 2. And tho, if a Wife uplift an heritable Sum belonging to her and
 retain the Money without reemploying it; or reemploy it by taking a Bond, sim-
 ply moveable without a Clause of Annuitment for it, the same will belong to the
 Husband *ius mariti*; yet her making the Sum in an heritable Bond, ~~or~~
 by a Charge or uplifting the Money and reemploying it heritably, doth not
 made it fall to the Husband as moveable 21 Feb. 1679 *Lebarn contra Birnie* the
 Wife's Design by so doing being not to render the Money Moveable, but to re-
 store it. Again, the *ius mariti* doth not give the Husband a formal Right to
 the Wife's Liferent, but only, like an Assignation, to Maills and Dutys gives Right
 to the Profits thereof as they fall due. So that a Wife's Liferent excheat (which
 in some Cases may fall) would belong to the King and his Donatory, who would
 exclude the *ius mariti* as a formal Assignation to a Liferent; cuts off prior Ab-
 signation to Maills and Dutys Stewart *ibid*. Sir Jo. Nisbet of Sir *lelow* will have
 a Man intitled *ius mariti* to a conditional Bond conceived in Favour of his
 Wife, tho she die before the Condition exist; because *stipulatio conditionalis patri*
acquiritur, diomsis conditio existat post emancipationem filij l. 10. ff. de reg. jur. But
 Sir James Stewart (*ibid*) thinks that the Husband has no Right to such a Bond,
 whereof dies non cepit stante matrimonio; as he would not be liable to his Wife's
 conditional Debt, whereof the Condition existed after Dissolution of the Marriage;
 and that the l. 10. ff. de reg. jur. makes nothing to the purpose. If it be so, a
 Legacy left to a Wife upon a Condition which did not exist till after the Wife's
 Death will much rather belong to herself; because in *legatis spectatus tempus*
quo conditio existit: in stipulationibus tempus contractus l. 144. §. ff. eod. Any
 Stranger may effectually convey an Estate to a Wife so as not to be subject to
 the Husband's Administration. *McKenzie inst. lib. 1. tit. 6. §. 7.* Alimentary
 Provisions to a Wife, in Case the Husband will not or cannot out or tain her, are so
 personal to her, that they do not return to him or his Creditors; whither made
 by the Husband, if not in fraudem creditorum, or by a third Party *Stair inst.*
lib. 1. tit. 4. §. 9. Stewart answers to *Drlet Doubts* tit. *alimenta*. But the Husband
 may only partake with her in the Benefit thereof, for their joint Suptenance;
 which is the undoubted Consequence of their becoming one flesh. Thus a Man
 having obliged himself by Bond, not to dispose of his Wife's Liferent without her
 Consent, because of his Faculty and Unfitness to manage, upon which she used
 inhibition; the Bond was sustained good as an Obligation to secure an Alimout
 to the Wife according to her Quality 27 Feb. 1663 *Lady Milntoun contra*
Milntoun. A Man was excluded from Access to a Sum payable to his Wife for
 her Alimout by her Father in Law 4 July 1637 *Scheut contra* *Guthrie*
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