

S E C T. V.

Wife's Oath with regard to Transactions before Marriage, if relevant against the Husband.

1606. February 13. GAVIN WEMYSS against CHRISTISON.

IN the action betwixt Gavin Wemyss and ——— Christison, and Mr James Thomson, her spouse, because the pursuer referred the verity of the debt and promise to the wife's oath, and of the said Mr James her husband's knowledge of the said promise before his own contract, or proclamation of the bands, the LORDS found they had very good action.

Fol. Dic. v. 2. p. 240. Haddington, MS. No 1028.

No 345.

1613. HERIOT against WATSON.

A PROMISE made by a woman while single cannot be proved by her oath against her after-husband.

Fol. Dic. v. 2. p. 240.

No 346.

*** This case is No 61. p. 5850. *voce* HUSBAND and WIFE.

1627. March 9. KER against LADY COVINGTON.

IN an action by George Ker, tailor in Edinburgh, against the Lady Covington, for payment of a sum promised by her in her widowhood, and which was referred to her oath, and whereupon her husband protested, that she could not swear to his prejudice, she being now the time of this pursuit, and since the promise, married to a husband; the LORDS found, That in this and the like cases, where the oath of a woman is craved upon promise made in her widowhood, she having a husband the time of the seeking of her oath, that the woman ought to give her oath, but the husband should not be prejudged thereby, nor yet the same should work against him or her during their marriage, but the oath should be taken to work against herself, in case it fall out that she ever be a single woman, or that she or her husband die, and after her

No 347.

In all cases where a wife is craved upon a debt contracted in widowhood, she ought to give her oath, which cannot, however, prejudice her husband, or affect her person during marriage.