

1675. December 17. WILSON against DEANS.

No 230.

It was found, That a woman keeping a shop, and trafficking as a merchant, with the knowledge of her husband, he is liable for debts contracted by her, upon account of her traffick, *actione institoria*.

Reporter, *Forret*.

Fol. Dic. v. 1. p. 403. Dirleton, No 319. p. 155.

** Gosford reports the same case :

In a pursuit at Dean's instance against Wilson, for payment of a bond granted by her for the price of wines, it was *alleged*, that the bond was null, being granted *stante matrimonio*.—It was *replied*, That she was *præposita negotiis*, she keeping an inn or tavern, where the goods were employed under her custody, and having granted bond therefor, was obliged in law for payment.—It was *duplied*, That as *præposita negotiis* she might burden her husband who did not subscribe, but he being dead, his heirs or executors were only liable.—THE LORDS did long debate amongst themselves upon that general case, and found a great difference where a husband hath a particular vocation, such as being an agent or writer, which is his only calling, and prefers and authorises his wife to keep a shop or tavern, and where they have no distinct calling ; but did not decide if in that case her bond did oblige herself, after her husband's decease ; but having considered this case, where the defender and her husband were jointly employed in keeping a tavern at Falkirk, to which they both gave their daily attendance, they found that the wife, as *præposita negotiis*, was not personally liable, but only the husband's heirs or executors, the bond being given *stante matrimonio*.

Gosford, MS. No 823. p. 519.

S E C T. IV.

Operation of Inhibition in taking off the effect of *Præpositura*.

1520. July 26. KINGAID against SANDERSON.

No 231.

JEAN KINGAID, executrix to her husband Walter Yule, pursues Alison Cranstoun, and Peter Sanderson her spouse, for payment of L. 107 of a bond made by

A husband found not obliged to pay even for