

THE LORDS found that she should pay the said annualrent during her possession of the said lands. No<sup>r</sup> 278.

*Spottiswood, (HUSBAND and WIFE.) p. 156.*

\* \* \* See Durie's report of this case, No 11. p. 1729.

1630. November 20.

RUTHERFORD *against* HALCRO.

No 279.

IN a suspension of a bond of L. 48, made by Halcro to Rutherford, because it was made by a woman, *stante matrimonio*, with the husband's consent, so that if any execution should be thereon, it ought to be against the husband's executors, and not against her, the LORDS sustained the charges against the relict, maker of the bond, because it was offered to be proved by the relict's own oath, that the bond was given for aliment furnished to her, she being here employed in doing of her husband's affairs, and for supply of her necessity; which the LORDS sustained, and found it not necessary that the charger should pursue the husband's heirs or executors therefor, but reserved action to the relict to seek her relief against them for the same *prout de jure*.

*Durie, p. 540.*

1631. January 29.

PORTER *against* LAW.

No 280.

A RELICT being charged to pay a sum, which she, and her husband with her, were obliged to pay to the creditor; and she *alleging*, that the obligation being made by her with her husband *stante matrimonio*, no execution now after his decease could follow against her, but only against her husband's heirs or executors, the LORDS found the reason relevant, seeing the relict was not obliged in law to pay the same, albeit the charger *answered*, That she was also bound, and that she was *præposita negotiis* also by the husband, which *præpositura* the LORDS found made not the relict obliged; but would infer, that albeit the husband had not been bound in the bond, as he indeed was, yet the husband's heirs and executors were convenable therefor, and not the relict; for that *præpositura* made the husband liable to the debt.

Act. *Cunninghamc.*

Alt. *Lermonth.*

Clerk, *Scot.*

*Durie, p. 561.*

1633. February 16.

STUART *against* BANNERMAN.

No 281.

A DECREET of ejection being obtained at the instance of William Kairney, against umquhile Robert Stuart and Christian Bannerman his spouse, for eject-

A horning a-  
gainst a wife.  
*vestita viro.*