

No 175. or homologation, after her husband's death, she may validate such obligation; yet, if she dies without taking any steps to remove the nullity, it must continue and be pleadable by her heir after her death, equally as it would have been by herself during her life.

"THE LORDS find, That an adjudication cannot proceed on the personal obligation of a wife *stante matrimonio*; therefore, sustain the defences, assolzie, and decern."

Act. J. Douglas.

Alt. M'Laurin.

Clerk, Tait.

Fol. Dic. v. 3. p. 284. Fac. Col. No 40. p. 107.

No 176.

1791. Feb. 21. HARVEY and FAWEL against TRUSTEES of CHESSELS.

HELEN CHESSELS, wife of James Scot, inherited from her father a considerable heritable property, on which the *jus mariti* of her husband had been excluded in the event of his bankruptcy, an event which actually happened. Afterwards Helen Chessels bound herself, with consent of her husband, in a cautionary obligation for their son. In an action brought on this obligation, the Lords found that it was ineffectual. The only way in which a wife's personal obligation can be made good, is by shewing that the money has been *in rem versum* of the wife. — See APPENDIX.

Fol. Dic. v. 3. p. 284.

## S E C T. V.

### Bonds of Provision by Wives.

No 177.

A married woman became bound to provide a wife in a tocher, in consequence of which the husband granted her a suitable life-rent. The obligation was

1579. December 20. PRIMROSE against LADY ROSSYTH.

There was ane HENRY PRIMROSE in Culross that pursued the Lady Rosseyth, now spouse to the Abbot of Dunfermline, to hear and see a contract betwixt the said Henry and the said Lady registered, into the whilk the Lady was bound to pay certain sums of money for tocher good, *et nomine dotis* of Redheugh maiden to the said Lady and spouse to the said Henry. The Lady *alleged*, that the contract ought not to be registered, and also the Commendator of Dunfermline spouse to the said Lady *alleged*, the contract ought not to be registered, because the same was done without the consent of the husband, then, at the making thereof, in life. To this was *answered*, that her hus-