

that a copy was delivered to him; the Lords annulled the inhibition for this want, although they offered them to prove, in fortification of the messenger's execution, that a copy was truly delivered to him. This was between Sir John Keith and ———. *Advocates' MS. No. 307, § 6, folio 126.*

1672. *January 20.* ——— *against* SIR ANDREW and LADY DICK.

SIR ANDREW DICK's lady and himself being pursued upon a bond granted by her, it was ALLEGED to be null, because given by a wife clad with a husband, without his consent. ANSWERED, *Imo*, She was *præposita negotiis*, and the subject matter of the bond was what fell under her præposition, viz. for meat and drink furnished; and so being *ob alimenta familiæ præstita*, it was *in rem mariti versum*; and that it was for the price of victual, refers to her oath. REPLIED, The wife can depone nothing in prejudice of her husband.

Yet the Lords found in this case, the wife ought to depone; and she confessing that to have been the cause of the bond, they would sustain it. Yet see *Hadington, 23d June 1613, Clement Russell against the Earl of Argile*, which seems somewhat contrary.

Advocates' MS. No. 308, folio 126.

1672. *January 24.* MR. JOHN ANDERSONE *against* JOHN WATSONE.

I WAS this day informed of an action pursued in 1664, by Mr. John Anderson, parson of Dysart, against John Watsone, heritor of the Pathhead, as he who had the only Kirklands in the parish, for a glebe. Wherein it was ALLEGED, *Imo*, That being a minister of a burgh royal, he could have no glebe.

ANSWERED,—That all ministers, though of burghs royal, had right to a glebe, providing they had any land-ward parish belonging to them, as he had; and that the 20th act of Parliament in 1663, does not exclude all ministers of royal burghs from a glebe, but only some.

The Lords found he had right to a glebe, because he had likewise the cure of a country parish.

2do, They ALLEGED, that the parson of Dysart could seek no glebe, because of old they had a glebe designed to them, viz. That part of the town of Dysart which is called the rectory, which at that time was in acres,* and was by the parsons since feued out at sundry times to several persons who have built houses thereupon, and pay a small feu-duty of two pence or three pence to the parson as superior and rector of the said rectory; who likewise enters the heirs and singular successors in these tenements for a composition; and if the parsons have

* Which acres at least were parson's land, and, by the act of Parliament they must be designed before other kirklands.