

land, which was provided to heirs-male, in contemplation of this marriage ; but, having differed in some provisions, it was not subscribed ; and, after the marriage, the said William and his spouse were entertained in the family with the father. And therefore, there was no reason to prove the intromitting with the bond, by witnesses, *ex officio*, or otherwise.

The Lords allowed witnesses, *ex officio*, to be examined, how the bonds came in the hands of the said Janet Alexander ; in respect of that evidence, that she had left the family, and married without consent of her father, and that there was a draught of the minute of contract on other terms, without mention of this bond ; but did not grant the oath, either of calumny, or verity of the wife.

*Vol. II, Page 396.*

1676. *January 19.* ————, in Argile, Supplicant.

—————, in Argile, being executor nominate to a defunct ; he gave in a bill to the Lords, representing, that the commissary of Argile, being with the M'Leans, there were letters of intercommuning published against him, and he did not officiate in his office as commissary, and hath no power of deputation, there being no Bishop of Argile ; and, therefore, desired that he might have warrant to intromit with the defunct's moveables, and licence to pursue, from the Lords, as being the King's great consistory, and having authority to supply the defects of inferior courts.

Which desire the Lords granted.

*Vol. II, Page 403.*

1676. *January 26.* DUKE of LAUDERDALE *against* LORD and LADY YESTER.

THE Duke of Lauderdale having disposed his whole estate to his daughter, the Lady Yester, by a disposition before her marriage, and also by her contract of marriage, both containing a reversion upon a rose-noble, by himself, or the heirs-male of his body, he used an order, and obtained declarator *in foro* ; and, having charged my Lord and Lady Yester to renounce and resign accordingly, he offered a draught, which he required to be subscribed for implement. They gave in a bill of suspension upon obedience ; and therewith subscribed a renunciation and resignation.

The Lords, having appointed the suspension to be discussed upon the bill, as they do ordinarily, whenever the charger requires it, the charger having produced the draught as his special charge,—it was ALLEGED for the suspenders,—That they offering a subscribed renunciation for obedience, they were not obliged to object against the charger's draught ; but their reason was unquestionably relevant, and instructed by the renunciation produced, unless the charger could object against it.

It was ANSWERED,—That, in a matter of this importance, of the Duke's whole estate, he was not obliged to accept of a renunciation, unless it were subscribed before such persons as he would desire to be present ; that there might be no