

No 12.

at the instance of the said creditors against the Lady; Mr David Dunmore advocate being cited, as a witness by the creditors; it was *observed*, That he could not be received, because he was an advocate, and could not be bound to depone upon his client's secrets; and that he was employed for the parties.—It was *answered*, That he had not been craved to depone upon any consultation or private advice, but upon the tenor thereof; the Lady having most maliciously destroyed her own double, and her husbands, of purpose that her husband's creditors, who were deeply engaged for him, might be defrauded; whereas it was proved by the contract of the husband, in contemplation whereof, the creditors did engage.—THE LORDS did ordain the said Mr David to depone upon the true tenor of the contract; seeing that could not concern any private advice or secret of his calling or employment.

Gosford, MS. No 826.

1676. January 21.

HOME against HOME.

No 13.

An advocate found obliged to answer summarily in an alimentary matter, not regarding his office.

HELEN HOME gave in a bill, desiring that Mr Patrick Home advocate, might be decerned to pay to her the sum of 2000 merks, which was all the means and portion she had by her father, in respect that Mr Patrick, by a tack set to him by his father, is introniter with the estate of Rentoun, for satisfying of the creditors: It was *answered* for Mr Patrick, that he could not be obliged to answer upon a bill, unless it had been in relation to matters in his office as an advocate; and, by the act of regulation, all processes must be inrolled, and come in by the roll.

THE LORDS repelled this allegiance, and ordained Mr Patrick to answer upon the bill, in respect that they are always accustomed to determine bills, and to discuss causes upon bills of suspension (where both parties appear) summarily, and likewise other bills that require present dispatch against persons in and about Edinburgh, who are cited upon the bill, and to answer before the Ordinary upon the bills, and so stop not the preference of solemn processes, which are discussed by the Ordinary upon the bench by the roll; and which is now more necessary than formerly, in respect that by the act of regulation, it is a considerable time ere a process under the signet can come in. And this case being alimentary, and the poor woman in great distress, the Lords sustained the bill.

Stair, v. 2. p. 403.

1676. December 7.

BALLANTINE against EDGAR.

No 14.

An advocate may appear for parties within the kingdom,

JOHN BALLANTINE having obtained a decret against Margaret Edgar, she suspends, and raises reduction on this reason, That she had right to the lands in question by liferent.—It was *answered*, That the reason was competent, and