

evidence, that he actually intromitted with a horse and riding-furniture, which had belonged to James, with his books, linens, and other clothes, being the whole effects he was master of, and that he had paid any debts which he owed.

No. 40.

“ The Lords, having advised the testimonies of the witnesses adduced, in consequence of the former interlocutor, whereby it appears, that Alexander Pringle had an universal intromission with his brother’s effects, sustain the defence, and assoilzie the defender.”

Act. *Macqueen, Solicitor-Dundas.*Akt. *Lockhart.*Clerk, *Pringle.*

*Fol. Dic. v. 4. p. 269. Fac. Coll. No. 92. p. 343.*

1776. December 27. LESLIES against ABERCROMBIE.

No. 41.

ABERCROMBY, after his wife’s death, being pursued by her nearest of kin for her share of the goods in communion, and particularly for the half of the sum in a bond of provision granted by the wife’s father, but which he, together with his wife, had renounced for a new security taken payable to himself and his heirs, of which the term of payment was not yet come, the defender pleaded, That his wife having left a son, who survived her a few days, the right transmitted *ipso jure* to the child; and although he died before confirmation, the father’s possession as administrator for his child, was equivalent to a confirmation, and therefore the father’s right to the sum in this bond, as nearest of kin to his son, must exclude the right of the pursuers, as nearest of kin to the mother. Answered, Possession supersedes the necessity of confirmation only where there is an actual apprehension of the *ipsa corpora* of moveables; but there can be no possession of the sum in a bond, of which the term of payment had not arrived. The Lords repelled the defence. See APPENDIX.

*Fol. Dic. v. 4. p. 270.*

1784. February 19. RICHARDSON against SHIELLS.

No. 42.

ALEXANDER ORR had become bound to dispoine certain lands, but died before fulfilling that obligation, though after a bond had been granted to him for the price. His eldest son, who was his universal dispoinee, possessed the lands for some time. He then obtained a sequestration, in terms of the act 1772, of the effects belonging to himself and to his father. Shiells, a creditor of the father, expedie a confirmation as executor-creditor, and gave up in inventory the bond above mentioned, for which a competition ensued between him and the factor under the sequestration; the latter pleading, That by the general disposition, followed by possession of the lands for which the bond was granted, the sums in question were completely transferred to the general dispoinee, and fell, of course,