

1685. *March.* JAMES SAMUEL *against* SIR JAMES ROCHEAD.

AN assignee to a bond, whose assignation was reduced for not being subscribed by two notaries, having got infeftment out of the debtor's lands, and transferred his right to Sir James Rothead, who compeared after pronouncing of the decret, and craved to be heard against the probation led for making void the assignation;—the Lords did not admit Sir James Rothead's interest in this state of the process, in respect it was not sooner intimated.

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1685. *March.* ROSS of TILLISNAUGH *against* GARDIN of MIGDSTRATH.

IN the improbation, at the instance of Ross of Tillisnaugh against Gardin of Migdstrath, of a bond of thirlage, upon this direct article, That the defender had sometimes alleged upon a temporary bond, and at other times had shown a perpetual bond, which had been quarrelled by those who saw it, as not bearing the true subscription of the deceased Alexander Ross, the alleged subscriber, and which the defender refuseth now to produce; and the bond produced by him is, by vitiation, made a perpetual of a temporary bond, and was given in so vitiated to the register by him; all which was proven;—the Lords found the bond produced, not only not probative, but also false, in respect of the vitiation *in substantialibus*. But they did not remit Migdstrath to be criminally punished, but left it to the advocate to raise an indictment before the justices, and lead what probation he thought fit: Albeit Migdstrath had abidden by the bond, in respect it was an evident granted to his predecessors, and it was not clearly proven that he had made the vitiations.

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1685. *March.* LADY KETTLESTON *against* JOHN HAY.

MR Thomas Hay having advanced his sister, the Lady Kettleston, £1400, at several times in small sums, who, at the foot of an account thereof, acknowledged the above-written sums were truly delivered to her, but did not oblige herself to repay the same to him; she pursued his heirs, who obtruded the said declaration, and she alleged her brother had her own money in his hand. The Lords found the subscribed acknowledgment did not import an obligation.

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1685. *March.* SMITH of INVERAMSAY *against* ABERCROMBY.

THE Lords rejected an order of redemption; for that the instrument of pre-