

1695. *February 27.* The EARL of ANNANDALE *against* SIR ROBERT DALZIEL of GLENNEA.

THE Earl of Annandale gave in a petition against Sir Robert Dalziel of Glennea, representing, there is a bond now produced of his father's, for 4 or 5000 merks, granted to Glennea's goodsire 32 years ago, and never claimed, nor heard of all this time, though his father was owing them another sum, whereof the annualrents were yearly paid, and this never sought; and he has just ground to believe, this was either a false bond, or granted blank *spe numerandæ pecuniæ*, and never took effect; and that one of the witnesses, called Couper, was dying, at least, might die before June, and who declared he knew nothing of such a bond, or his subscription; therefore, craving he might be examined to lie *in re-tentis*.

The Lords having considered the testificate of his sickness and age, and that the bill was intimated, and no answers, they allowed the Ordinary on the Bills to take his oath, in the vacance; but, as he could not well depone without seeing the bond itself and his own subscription, they granted a diligence against his mother and tutors, for exhibiting the bond.

All this was regular: but it was further represented, they would keep the bond, to stop his examination, and render it ineffectual, unless a second diligence, by caption, was granted, to force them, in the vacance, to exhibit it: which the plurality of the Lords yielded to, though some desired an instance might be given when a first and second diligence were granted both at once; but the plurality of the Lords thought there was no inconvenience in the thing; and, without it, the granting the other part of the petition would be ineffectual.

*Vol. I. Page 673.*

1695. *February 27.* IRVINE of DRUM and His LADY, *against* MURTLE.

THE Lords, on the bills and answers between Irvine of Drum and his Lady, against Murtle, the administrator, at last finding all offers made by the Lady's friends impracticable, and that the accommodation offered did not take effect, they proceeded to restrict the Laird's aliment of 6000 merks; and, by the generality, it was found, that, the circumstances of the family being considered, with the debts, and his melancholy, 4000 merks was sufficient; but ordained it to be by way of annuity, free of public burdens; though they appointed a locality to be given him, for his surer payment, and that it should begin at Whitsunday next. For the Lords thought it unjust to turn out Murtle from the administration, when he was apparent heir of tailyie, and had sold his own estate to disburden Drum's of a part of the pressing debts.

*Vol. I. Page 674.*

1695. *February 28.* ALEXANDER ARBUTHNOT of KNOX, Petitioner.

ALEXANDER Arbuthnot of Knox gave in a bill, representing, That, the Vis-