

No. 13. 1742, Dec. 21. WILLIAMSON against WILLIAMSON.

THE question was, Whether a bond of provision by a father to his daughters, written on three pages of one sheet of stamped paper, holograph, but only the last page (signed), is valid? 9th December, Delayed till Thursday.—21st December, The Lords repelled the objection, *me renit*. Kilkerran did not vote.

No. 14. 1733, Jan. 12. CREDITORS OF KINGSTORIE, *Competing*.

INHIBITION and adjudication being used in name of Kilravock's cedent and his own, when the assignations were not stamped, as the law requires, and thereupon these diligences being found null by a former interlocutor in this ranking; these writs are now stamped and the penalty paid. So the question was, Whether that can operate *retro* to sustain the former diligences? The Lords found it did, and repelled the objection, of which I greatly doubted.

No. 15. 1743, June 17. TRAIL against CHRISTIE.

THE question was, Whether a general discharge of all claggs, claims, bonds, bills, requires stamped paper, or could be pleaded in bar of a bill without being stamped? The President said that he believed a release in England required stamped paper, but that a receipt of the whole debt does not. Some of us wanted to see the resolution the Court came to after the stamp act, *inter quos ego*, though I thought it ridiculous to require stamped paper in a discharge of a bill or account that itself required not stamped paper. But it carried to repel the objection.

No. 17. 1744, June 26. SIR THOMAS CALDER'S CREDITORS against JAMES CALDER.

SIR THOMAS had got from Kilravock, &c. a right of pre-emption of the estate of Muirton, in case they should sell it, that he should have it at a price then agreed, and which, 1734, he made over to his son James, after he was insolvent. There had been certain processes at Sir Thomas's instance concerning that right, in which Sir Thomas was cast before the Session, which brought on a submission at London, wherein the son James submitted, as burden taker for his father, and arbiters decerned Kilravock, &c. to pay L.700 Sterling, and Sir Thomas and his son to grant a discharge of that right. The discharge was duly signed by Sir Thomas, and sent to London to be signed by the son, who sent it to his agent at Edinburgh, signed by him and the witnesses, with a direction for filling up the names and designations, and to deliver it upon payment. Sir Thomas's creditors arrested and pursued forthcoming, and Kilravock, &c. raised a multiplepoinding, wherein Lord Minto, Ordinary, 1st, found the money Sir Thomas's effects, and affectable and affected by his creditors: 2dly, He caused the agent produce the discharge, with James Calder's letter: 3dly, He ordered the clerk to fill up the blanks, but which was not done. But he made avizandum to us, whether it could be ordered to be delivered up to the creditors, or to Kilravock on payment to them of the

price? and, by a majority, we found not. President and Arniston found great fault with the first interlocutor, and that this right of pre-emption was not affectable by creditors, and the son's right of consequence not reducible by them: 2dly, That we could not take the discharge out of the son's pocket, nor consequently out of his agent's, and deliver it. This was on the 15th, and the creditors having reclaimed, and offered to prove that the son was under back-bond to the father, which clearly made at least this money the father's, and craved diligence to recover it, and upon recovery to alter the former interlocutor; yet we refused their bill upon the second reason, *me quidem inter alios renit*. I had indeed some doubt as to the filling up the blanks; but since that was ordered by the Ordinary, and acquiesced in without reclaiming, I thought we could order delivery; and I also thought the first interlocutor right, though there had been no back-bond.

No. 18. 1744, Dec. 20. ROBERTSON *against* YOUNG.

A BOND signed by a woman who could not write, but her hand led, unanimously found void and null.

No. 19. 1745, June 17. BIRREL *against* MOFFAT.

A DISPOSITION signed with initial letters, and also by two notaries and four witnesses, sustained, albeit the first notary's attestation did not bear *de mandato*, in respect that the body of the deed, which was all written by that notary, expressly mentioned the notary's signing at the party's command, 19th February 1744. But on a reclaiming bill this was altered, and the disposition found null, 18th June 1744, *quod vide. (infra.)*

A disposition by a man to his wife, signed by notaries, found null, in respect the first notary's attestation bare not *de mandato*, albeit the whole paper was written by a notary, and the doquet bore that it was signed by notaries for him, at his command, because he could not write, and was also signed by initials; but that was not mentioned in the doquet, but only that he signed by notaries, 18th June 1745. I was in the Outer-House.

No. 20. 1745, July 30. ANDREW TRAIL *against* CHRISTIE.

THESE parties were before us formerly, in July 1743, upon a question on the stamp act. (No. 15.) The question now was, Whether a general discharge of all bills could be taken off by a proof by witnesses that this bill of L.160 was not intended to be included? which the Ordinary found it could not. The President and I were very clear it could not; but Tinwald and Kilkerran being strongly impressed with the proof that the Ordinary had taken before answer, were for making an exception of this case from the rule. But after long reasoning, we all agreed to take the suspender Andrew Trail's examination in presence (23d July); and after examining him, the 30th, we adhered.—30th July, A discharge being granted of two bills that had been lost, and of all bills or bonds that ever had been granted preceding the date of the discharge, and which discharge was written by the granter himself, the granter offered to prove by witnesses that a bill of L.160 Scots, which was payable some little time before the date of that discharge, (and which the debtor averred he had actually paid, and in particular, that he had paid a balance of