

No. 49. for Mitchell, and answers for Cruickshank, the Lords altered and adhered to the first interlocutor. This bill and answers are worth reading.* *Vide* Ramsay against Hogg, No. 31. *supra*. (See DICT. No. 145. p. 1576.)

1751. *February 19.* KERR *against* HUGH CLERK.

No. 50.
Bills constituting a
submission sus-
tained.

A SUBMISSION being entered into not in the ordinary form, but by both parties mutually accepting bills to each other for a certain sum, and the creditor in each bill indorsing it blank, and so consigning both in the arbiter's hands, they gave their decreet-arbitral by delivering to one of the parties both bills; viz. his own acceptance discharged, and the other party's with a partial receipt filled up in the blank, which restricted the bill to the sum they thought due; and this bill being charged for and suspended, for that this was debording quite from the nature of bills as vehicles of commerce, and a dangerous precedent; yet the Court repelled the objection and sustained the bill.

1751. *July 24, 30.* MONCRIEF *against* MONCRIEF.

No. 51.

A BILL payable at a term with interest was found null by Lord Kilkerran. We adhered, and refused two reclaiming bills, agreeable to sundry precedents marked by me on the papers. The bill was for L.40, and was written by the acceptor.

1751. *December 13.*

MONCRIEFF of Tippermalloch *against* Sir WILLIAM MONCRIEFF of that Ilk.

No. 52.

BILL accepted in 1719 payable on demand, being put in suit only in 1746 after the death of the acceptor, the Lords found that no action did lye for the money, notwithstanding a missive letter from the acceptor in 1720, excusing the not payment of the money, and promising annualrent, and some other circumstances to excuse the long taciturnity: And on another bill by the same acceptor Sir Thomas Moncrieff, to the same creditor Sir Hugh Moncrieff of Tippermalloch in 1736 for 1000 merks, payable on demand; the Lords found annualrent due only from the citation in this process. (See DICT. No. 7. p. 478 and No. 31. p. 1428..)

* Lord Elchies's Session papers were deposited in the Advocates' Library along with his MSS.