

No. 50. 1751, Feb. 19. KERR *against* HUGH CLERK.

A SUBMISSION being entered into by the parties accepting each of them a bill to the other for sums of money with blank indorsations on the back, and depositing them in the arbiters hands, who thereby had it in their power to make these bills be for any less sum they pleased, by filling up a partial receipt in that blank, which they accordingly did in one of them, and gave up the other;—it was objected, that that deborted greatly from the nature and design of bills as instruments and vehicles of commerce, and was not a habile way of making submissions; which the Lords repelled;—though I own I demurred.

No. 51. 1751, July 24. MONCRIEFF *against* MONCRIEFF.

LORD KILKERRAN, Ordinary, found a bill of L.40 sterling granted by the deceased Sir Thomas Moncrieff, bearing annualrent from the date, void and null; and, upon a reclaiming bill very accurately drawn by Mr Craigie, we unanimously refused the bill and adhered. *Vide* the petition on which I have marked the former decisions on that question. 30th July We adhered, and refused a reclaiming petition without answers.

No. 52. 1751, Dec. 18. MONCRIEFF *against* SIR WILLIAM MONCRIEFF.

SIR THOMAS MONCRIEFF in 1719 accepted a bill to Sir Hugh Moncrieff of Tippermalloch for 700 merks, payable on demand, and in 1720 wrote a letter excusing his not having paid the money and promising annualrent. Moncrieff, pursuer, got a disposition from Sir Hugh of his effects, and of this among the rest, and sued Sir William as heir to Sir Thomas only in 1746. Kilkerran the Ordinary, because of the bills having lain so long over, found it not probative. The pursuer reclaimed, and insisted on sundry circumstances to account for the taciturnity; but we adhered in effect, only varied the words, and found that action did not lie for the money. In that same process we found annualrent due from the citation in this process, for a promissory-note of L.30 by Sir Thomas to Sir Hugh, dated in 1734, payable on demand; but this last was carried, *me et aliis renitent*.—particularly I think the President. In this process also Kilkerran found annualrent due only from citation in this process on a bill for 1000 merks, accepted by Sir Thomas to Sir Hugh in January 1736, and payable on demand. The pursuer reclaimed, and insisted for annualrent from the date,—but we adhered.

No. 53. 1752, Jan. 24. DALRYMPLE *against* BAILIE LYON.

THE Lords adhered to Drummore's interlocutor finding a bill bearing annualrent from the date null, and striking that sum out of an adjudication.

No. 54. 1753, Nov. 27. JAMES CAMPBELL *against* DAVID GIBSON.

A BILL upon Archibald Campbell as principal, and the said James Campbell as cautioner conjunctly and severally, and accepted by both, being suspended by the cautioner, for that a cautionary obligation could not be constituted by a bill, Kilkerran first sustain-