

*Pleaded* for Mr Crawford, The note was *res furtiva* which hindered the transmission thereof; and even money when stolen may be vindicated, if it can be discovered, *l. 78. ff. de solutionibus.*

No 2.

*Replied,* If it were relevant, there is no sufficient evidence that the note was *res furtiva.*

THE LORDS found, That Mr Crawford had no claim to the note, and preferred the Royal Bank.

*Adv. R. Craigie, H. Home, Lockhart & R. Dundas. Alt. Wedderburn, R. Pringle & J. Erskine.*

*D. Falconer, v. 2. No 64. p. 67.*

1768. February. BORLAND against THISTLE BANK of Glasgow.

No 3.

A BANKING company is not obliged to pay value for forgeries committed against them; and they are entitled, when a forged note is presented, to stop its farther circulation by putting a mark upon it, certifying that it is a forgery.

*Fol. Dic. v. 3. p. 47. Tail's MS.*

1794. January 16. JOHN M'GILCHRIST against THOMAS ARTHUR.

JAMES FIFE granted to Archibald Macauland the following order:

*' Port-Glasgow, 23d February 1793.*

*' Pay the bearer on demand, or his order, One hundred pounds Sterling, and debit my account with the branch of the Bank of Scotland, Greenock.*

*' To Messrs Wilson and Arthur their agents.'*

No 4.

When a person grants a draught on his banker, payable to the bearer, or his order, on demand, he cannot, in a question with an onerous holder of it, plead compensation upon a debt due to him by the person to whom the draught was originally delivered.

This order, Fife afterwards alleged, was granted without value, and on promise of repayment on or before the 26th February 1793.

Macauland stoppt payment on the 5th March following. On the 12th of that month, Fife received a charge of horning upon this draught, at the instance of John Macgilchrist, who had got it as a payment from Macauland on the 24th of February, but had not presented it at the Bank till the 5th of March, when Fife having by that time withdrawn his money out of their hands, payment was refused, and a protest immediately taken.

Fife raised a suspension of this charge, which, upon his bankruptcy, was conducted by Thomas Arthur, the trustee for his creditors. The competency of a summary charge upon such a note having been disputed, the Lord Ordinary turned the charge into a libel, and found the defender liable in the sum contained in the draught, with interest.

In a reclaiming petition, Arthur contended, That if Macauland had immediately, upon receiving the draught, carried it to the Bank, as he ought to have