

to be allowed, a way would be found out to defeat every forfeiture whatever. The case of Bowhill was erroneously judged, and no precedent to this Court. No. 270.

“ The Lords dismissed the claim.”

Act. *Ferguson, Lockhart, J. Dalrymple.* Alt. *Advocatus A. Pringle.* Clerk, *Kirkpatrick.*
S. *Fac. Coll. No. 119. p. 177.*

1783. June 20. GEORGE ROBERTSON *against* ALEXANDER RAMSAY.

No. 271.

The award of arbiters, though signed by them and delivered to their clerk, may be altered by them, while undelivered to the parties.

Fac. Coll.

* * This case is No. 51. p. 653. *voce* ARBITRATION.

1787. February 6. THOMAS CARRICK *against* ROBERT KEY.

No. 272.

Thomas Carrick sued for delivery of a bill of exchange for 1000 merks, drawn by the father of the defender, Robert Key, and afterwards by him indorsed to the pursuer, who was his grandson by a daughter, and at that time under age.

The drawer had about the same time indorsed a bill for 2000 merks to another of his daughters. He had also indorsed a bill for 1000 merks to the pursuer's mother. Both these bills he had delivered to the indorsees; but the bill in question had remained in his custody till a short time before his death, when he delivered it, with several other writings, to Robert Key, his only son, and general disponee, without giving particular directions as to the disposal of any of them.

Pleaded for the defender: In order to prove the transmission of a right of debt from one person to another, the deed executed for this purpose must be delivered, or some other act performed, which in the contemplation of law is held equivalent to delivery. The mere indorsation of a bill of exchange, without giving over the voucher itself to the indorsee, or to some person for his behoof, cannot be thought sufficient. Though this may lead to a belief, that the creditor had at one time some design of bestowing a part of his effects in this way, it must be presumed, from his subsequent conduct, that he had afterwards altered his purpose; *Kames's Elucid. p. 26.* The circumstance, of the deceased having, in the present instance, put the document itself, a short while only before his death, into the hands of the defender, who was to be his general representative, seems to strengthen this supposition.

Answered: In the case of deeds executed in favour of near relations, when framed in such a manner as to import an immediate transference of the right, no

To transmit the right of a bill of exchange to an indorsee, delivery of the bill itself is not indispensably necessary.