in so far as it is to his own behoof, might be excused, yet it must operate a nullity, in so far as the apprising is to the behoof of the cedent, who assigned to annual-rents generally, without restricting precisely to what were due; as such an apprising, led in the cedent's own name, would have been simply null. The Lords found the apprising, in so far as it was to the behoof of the cedent, simply null, and not to subsist as a real security: but, before pronouncing interlocutor, it was recommended to settle the parties. *Vide* No. 283, [Mr Edward Wright against Earl of Annandale, January 1683;] No. 290, [Baillie of Torwoodhead against Florence Gairner and his Son, March 1683;] No. 311, [Margaret Crawfurd against Oliphant of Condy, March 1685;] and No. 312, [Lady Hisleside against Matthew Baillie, February 1685.]

Page 73, No. 304.

1684. *February.* WILLIAM GORDON *against* ROBERT LEARMONTH.

ONE Downie, infeft upon an apprising of the lands of Balcomy, having disponed his right to Gordon of Lesmore, who was also infeft, and transferred the same to Mr William Hieson, who pursued exhibition of the apprising, and grounds and warrants thereof, against Balcome's apparent heir;—Alleged for the defender, That the apprising being in the hands of the debtor, or his apparent heir, it was *instrumentum apud debitorem*, &c. Answered, Though the brocard holds in personal rights, transmissible by assignation, which may be destroyed upon re-delivery, real rights are not extinguishable but by renunciations or conveyances. The Lords found the answer relevant.

Page 112, No. 419.

1684. *February.* WILLIAM AULD *against* JOHN SMITH.

ONE having delivered a principal bond to his son-in-law unregistrate, who gave it up to the debtor, and got a new bond in his own name in lieu thereof; the creditors of the father-in-law pursued the debtor; and having referred the debt to his oath, he deponed, and acknowledged the matter of fact above-mentioned. Alleged for the pursuers, That the haver of a principal bond, wherein another person was creditor, could pretend no right thereto without an assignation; and the debtor who got it up from another than the creditor, had reason to suspect, that it was either found or fraudulently abstracted. Answered for the debtor and son-in-law, That they offered to prove, by witnesses, that the father-in-law declared to them he had given the bond to the defender, in order to be renewed in his son-in-law's name. The Lords, before answer, ordained the witnesses to be examined, and the debtor to be re-examined upon that point. *Vide* No. 467, [Reach against Polwart, November 1685.]

Page 125, No. 457.
