

ANSWERED,—I was not obliged by the tenor of your bond; but, if you can allege collusion, or any way redargue the truth of the account, I shall allow you yet to be heard.

The Lords repelled the reason, and found he had followed the master's and servant's faith, unless he could redargue it. *Vol. I. Page 647.*

1694. *December 5.* The CREDITORS of HUGH NEILSON, Apothecary in Edinburgh, *against* BAILIE JAMES GRAHAM and THOMAS ALLAN.

THE question was, If they should reproduce a back-bond, which was once in the process, whereby James Graham declared, that, though his disposition was simple and absolute, yet it was only for security of some debt.

ALLEGED,—The same was taken up before he was cited, and interpellated; and so nothing could hinder him to transact.

The Lords found him *in mala fide*, and ordained the caption to be put in execution against him, till he exhibited it; and, in case it were cancelled, till its tenor were made up, or their damages paid; for, *qui dolo desiit possidere pro possessore habetur*. *Vol. I. Page 647.*

1694. *December 5.* CRAWFURD, Minister, *against* COCKBURN of LADYKIRK.

CRAWFURD, minister, against Cockburn of Ladykirk, on a bond for several years' stipend. The reasons of reduction were, It was granted by me in my minority, having curators, and they were not consenting.

The Lords found the bill null; but sustained it as a libel, without putting them to a new process, (as strict form would require;) and allowed them to debate against the ground of the debt, as if there was no bond.

*Vol. I. Page 647.*

1694. *December 5.* POOR GILBERT WATSON *against* GORDON of HALHEAD.

THE Lords advised the bill and answers, about the spuilie and ejection, and refused to grant any farther diligence for proving the quantity of what was poulded, in regard the probation was already closed and advised, and it were a dangerous preparative. But, before answer to that point, Whether he had right to hold courts, for his rents, on the lands of Ardgows, being only a wadsetter; the Lords ordained his rights to be produced, to see if it bore *cum curiis*.

It was doubted, when a master poulded for his rent, if he needed to carry it to the market-cross, to be there apprised: and the generality thought not; but that barons designed their own gate, or any other place within their own lands, for that solemnity, and choosed prisers for that effect. See *Stair, lib. 4, tit. 47, sect. 30 and 31.* *Vol. I. Page 647.*