

No. 16. 1737, June 28. DUNWOODIE *against* JOHNSTON.

LORD ARNISTON, probationer, reported two objections against a bill; that being drawn and accepted at Candlemas, payable at Martinmas, it bore annualrent from the date; 2dly, That it was accepted by a notary before witnesses designed only in the notary's attestation. The Lord reporter gave his opinion for sustaining both objections, but the Lords repelled the last objection, though it was in the debate admitted that a bond so signed would have been null. However, it carried so by the President's casting vote, (viz. the Justice-Clerk;) but we sustained the first objection, and justly, for it might as well have carried annualrent a year *retro*, since that would not have been usury. Yet it has been decided otherwise, *vide infra*.—(7th June.)

The Lords in respect of several former decisions sustained the bill, notwithstanding it bore annualrent from the date, and therein altered the former interlocutor. They adhered to the former interlocutor repelling the objection that it was accepted by a notary and witnesses, and the witnesses not designed. It carried by the narrowest majority seven to six, and Arniston in the chair was against the interlocutor.—(28th June.)

No. 18. 1738, Nov. 18. MANSFIELD *against* BUCHANAN.

AN accepted bill payable at Candlemas 1737 indorsed to Mansfield, upon which no diligence had followed within the six months, nor till February 1738,—then decret was obtained for it in the inferior Court. The Lords found compensation on the debt of the original creditors in the bills not competent against the indorsec, *referente* Drummore without Informations.

No. 19. 1738, Dec. 6. A. *against* B.

*ME REFERENTE* without Informations from the Outer-House, the Lords found two bills drawn payable to "me James M'Artney, or order," being neither holograph of the drawer, as appeared by comparing them together and with other writs, nor signed by him as drawer, although bearing to be signed by the acceptor, and said to be found among the drawer's writs after his death, were null and void, and not probative. Found pretty unanimously, *sed renitente* President, who yet admitted that such a bill payable to a third party not signed by the drawer would be null; so that the only difference in his opinion must have lain in the addition of the word "me," which I thought was no difference where the bill was not written by the pretended drawer, but a third party, for nothing then could make it his mandate but his subscribing it. On the other hand, the Lords thought, that if the bill had been written by him, it would have been good, it not being very material whether he subscribed his name, or writ it in the body: In both cases it was his mandate.

No. 20. 1739, June 6. AINSLIE *against* ARBUTHNOT, &c.

THE Lords found, that Bailie Arbuthnot having taken bills from Cave and given up the victual receipts without marking in his books or taking other document that these bills were for behcof of Ainslie, or giving him notice that he had taken such bills; that therefore the bills so taken were upon Bailie Arbuthnot's risk, and ought not to be stated to the debit of Mr Ainslie's account; and sustained the objection to these articles. But upon a reclaiming bill they adhered and repelled the objection.