

be binding ; and that though citation and probation be *juris naturalis*, wherewith a man cannot dispense, yet that in a civil matter he might do so. But in *delictis* it is far otherways.

Advocates' MS. folio 54.

1665. *July 24.*

SCOT *against* SOMERVELL.

IN this case, found that a party, in obedience of a charge of horning, having consigned the sum in the clerk's hands, not maliciously,—that the peril and hazard of the consigned money follows the charger, and not the consigner ; for at that time, Harie Hope being Thesaurer did bankerout.

Act. Lockhart.

Alt. Wallace.

Advocates' MS. folio 54.

1665. *July 24.*

Row *against* The VISCOUNT OF STORMOND.

IN a case betwixt Row and the Viscount of Stormond, [FOUND] that a summons raised within year and day, and not executed, prescribes. For which there is no reason at all, but the benefit of the signet.

Advocates' MS. folio 54.

1665. *November 1.*

DAVID THOIRES *against* SIR ANDREW RAMSAY.

COLONEL DAVID RAMSAY, by contract of marriage betwixt him and Janet Skein, is bound to provide her to eighteen chalders of victual, or 1800 merks of money yearly ; and having purchased the lands of Grangemoore, only worth nine chalders of victual, he takes the disposition in his and his wife's name ; wherein mention is made, that his wife accepts of that right and infetment of the lands, in satisfaction of all that she could crave from her husband, or his heirs, by virtue of her contract of marriage, and in acceptation thereof ; whereupon she is infet and in possession during his lifetime : Thereafter marrying Mr. David Thoires, there is a summons raised against Sir Andrew Ramsay, provost of Edinburgh, as heir, for implement of her contract of marriage, who obtruded the provision and infetment of the lands of the Grange, granted to her in satisfaction, likeas she had homologated the acceptation by possession of the said lands. Which the Lords, by their interlocutor, found relevant, and that her possession of the lands was an homologation of the provision. Which was hard, and the preparative dangerous ; but the consideration that moved the Lords was, that Colonel

Ramsay had no more estate in the world but that money which was employed for buying of the Grange, and whereto she was provided.

Act. Thoires.

Alt. Lockhart.

Advocates' MS. folio 54.

1665. *November 1.*

THE Lords found that in blank bonds where there is any other man's name filled up nor his to whom it was delivered, that the party whose name is inserted ought to intimate to the debtor that his name is filled up therein; and that before intimation thereof, the creditors of the party to whom it is delivered may affect it by arrestment or otherways; and in effect found it like an assignation. Which was well decided.

Act. Lockhart.

Alt. Cunyghame.

Advocates' MS. folio 55.

1665. *November 1.*

WALTER PRINGLE *against* _____

IN a case betwixt Walter Pringle of Greinknow, &c. found that a subvassal being infest *cum curiis*, might be judge of Bluidwyts.

Act. Pringle.

Alt. Trotter.

Advocates' MS. folio 55.

1665. *December 1.*

YOUNG *against* BARNES.

IN this case, found that the possession of lands apprehended by the daughter, after the father's decease, who had disposed that land to his daughter, in satisfaction of her mother's contract,—could not in law infer an acceptance of that right and disposition made to her by her father, in satisfaction, as said is; she being the only bairn of the marriage, to whom it was provided betwixt her father and mother: unless it were alleged, that the daughter, after the father's decease, did recover decreets against the tenants of that land, for payment of the duties thereof, founded on that disposition.

Act. Sinclair and Dinmuire.

Alt. Lockhart.

This seems somewhat contrary to Mr. David Thoires his case aforesaid. I have the Information thereof, &c.

Advocates' MS. folio 55.