

instruct he hath right to the said sums for an onerous cause, before the pursuer James Wood's right to the said debts, and that otherwise than by his own oath; and find that the onerous cause of his wife's mother's contract of marriage, condescended on by Mr Patrick, is no such onerous cause as to sustain Mr Patrick his assignation and right. But, as to the funeral charges, and aliment furnished to Andrew Balfour, his wife's father, during the time of his imprisonment, the Lords declare they will sustain the same, in so far as it shall be instructed, in such manner and way as things of that nature can be proven. *Vide infra*, 10th Jan. 1683. *Vol. I. Page 33.*

1683. *January 10.*—The Lords, on Castlehill's report, found that the bond of corroboration given by Wood was elicited and extorted *per vim et metum*, because in the messenger's hands; and did not put James to prove that he was then in prison; and therefore reduced the bond, unless Mr Patrick proved some onerous cause of it.

There are two cases wherein bonds granted *metu carceris* are not reputed such final transactions but they may be quarrelled, *Imo*, If the imprisonment be found unjust and illegal. *2do*, If the first bond or decret (whereof the corroboration is given in prison) did labour under some defects or nullities, or stood discharged, and these were not known or were not communed at the time of granting the bond of corroboration. *Vide 16th January 1683, Tolquhon.* *Vol. I. Page 206.*

1683. *December 20.*—Captain James Wood's action against Mr Patrick Reid, mentioned 15th January 1679, was reported by Castlehill. The Lords repelled the right Mr Patrick founded on, acquired from Sir George Nicolson of Kemnay, (for which he paid him 2000 merks,) as no sufficient onerous cause to sustain his disposition from his father-in-law Andrew Balfour; because the right he had taken from Kemnay was 17 months posterior to James Wood's right of his escheat. *Vol. I. Page 252.*

1683. *December 22.* GEORGE ALEXANDER *against* MORISON of BOGNIE.

MORISON of Bognie having, in passion, called Mr George Alexander, advocate, a cheat; he complains to the Lords of Session, and leads Mr Robert Colt, and another, who heard it, as witnesses; and on this probation the Lords ordain Bognie to crave him pardon in their presence, (to the intimation of which they called in all the advocates;) and to pay 100 merks of fine to the poor, and to lie in prison during their pleasure: but he absented himself. See the like case in Stair's Decisions, 14th July 1668, *Mr David Falconer against Sir James Keith.*

In England, upon such complaint, a man gets some part of the fines to himself, as we see in the pursuits lately made on the Statute called *scandalum magnatum*; which were just to be introduced also with us. *Vol. I. Page 254.*