

the marriage, at the next term after her the granter's decease; which failing, to return to herself, her heirs and assignees: The marriage having dissolved without heirs, and the husband having, as far, pursued the debtor's executors for the money;—Alleged for the defenders, 1. The bond is conditional, failing heirs. 2. Though there were no condition in the case but a substitution, the defenders have [the] only right as heirs substitute to the pursuer, who is far, and liable as an heir. [*Nota*, what follows should be part of the defence.] Answered, The bond being gratuitous, and the pursuer having but a qualified fee, the substitution must be effectual. The Lords found, That the pursuer had but a qualified fee, and decerned him to find caution to restore the money, after her death, to the defenders.

Page 50, No. 219.

1688. *February.* CAMERON *against* _____.

MR Archibald Cameron having [died] after he had gotten a son, [the son] raised reduction of a 1000 merks' bond, taken by him when he had no children, to his cousin in fee, reserving his own liferent upon the grounds of [the] civil law, *ex supernascentia liberorum*. 2. Mr Archibald, before his death, drew an assignation to the said bond, (conform to a power reserved,) with his own hand, which is *judicium mutatae voluntatis*. 3. *Testamentum imperfectum inter liberos* is sustained. Answered, This part of the civil law hath no place with us. 2. It took only place by the civil law *inter patronum et libertos*. And 3. It was in the case of a total donation, whereas this is but a small part of the defunct's estate. The Lords assoilyied from the reduction. *Vide* No. 146, [David Oswald against Somervell and Boyd, February 1687.]

Page 51, No. 222.

1688. *February.* LORD YESTER *against* LORD LAUDERDALE.

MY Lord Yester having adjudged at Christmas 1686, for principal sum and annualrent, due and accumulated at the Martinmas preceding;—the Lords found, That the accumulated annualrent did not bear annualrent from Martinmas, but from the date of the adjudication; and that no annualrent was due for the two months intervening, by virtue of the personal obligation in the bond, which was the ground of the adjudication, seeing the adjudger did not delay till the term, though now the term is past. *Vide* No. 332, [Cleland and Paterson against William Wilson, January 1688.]

Page 81, No. 334.

1688. *February.* The EARL of ROXBURGH *against* Mr JAMES CHISHOLM, Minister of LESLIE.

MR John Chisholm, parson of Leslie, having obtained certification, in a reduc-