

under the triennial prescription of Act 83, Parliament 1579; otherwise a debt might be made up against a tailyed estate after it was prescribed.

DUPLIED,---He needed not pursue within the three years, in this case, because the bond interrupted the prescription; and, though it may be null as to other effects, yet it is always sustained to have the effect of an interruption where I offer to prove the account, even as a bond given by a minor is null; yet, if I instruct it was *in rem versum*, it will be sustained.

TRIPLIED,---To make this acknowledgment and narrative an interruption, is to open a door to all fraud for subverting of tailyes; and this pursuer was *in mora* in not constituting his debt against the first contractor, at least the debtor in the bond.

The Lords found it relevant to sustain the narrative of the bond, so as to affect the tailyed estate, if the pursuer prove the work was truly furnished to Cromwell, the maker of the tailye, and that it extended to the value of the sum in the bond, and was not prescribed, but within three years of the furnishing, when the bond was granted. All which cautions were adhibited to prevent collusive debts upon entailed estates. *Vol. II. Page 10.*

1698. November 3. SIR WILLIAM BRUCE of KINROSS *against* The EARL of MORTON and his TENANTS.

SIR William Bruce of Kinross, pursuing maills and duties on his decret, obtained in February last, against the Earl of Morton and his Tenants of Aberdour, before the Sheriff of Fife, a bill of advocation is presented on thir reasons: *1mo.* That Aberdour is a regality, and not bound to answer to the Sheriff-court; *2do.* That the Lady Rothes, being Sheriff, her sister is Sir William's daughter-in-law; *3tio.* They had a reduction depending of all Sir William's rights, which, being prejudicial, behoved to draw the maills and duties to the Lords, *per contingentiam causæ.*

The Lords repelled the reasons, and refused the bill: The *first*, in respect of this answer, That, if it was a regality, it had no court nor judicatory; and, Sir William being infest, was Lord of it himself: The *second*, Because the affinity fell not within the prohibition of the Act of Parliament: The *third* was repelled, Because the reduction was not produced in the field; and, though it were, the single raising of a reduction can never stop execution: likeas, Sir William had certification against my Lord Morton's rights. Some thought the Lords not competent now, seeing there was a protestation for remeid of law in the case, and which was so far advanced that it was tabled by a citation in the last session of Parliament. *Vol. II. Page 12.*

1698. November 3. WILLIAM JOHNSTON *against* ROBERT JOHNSTON, his Brother.

WILLIAM Johnston, in Haddington, having pursued his brother Robert for re-