

deceased Samuel Drummond of Carloury, and Mr Alexander Drummond of Eastfield, his brother, charges the said Mr Alexander for payment. Who ALLEGES absolvitor; because Skein having afterwards lent Carloury 300 merks more, he got a new bond from him for the whole £1000 Scots, including the former 1200 merks; whereupon the prior bond of 1200 merks, wherein I was bound, became extinct, and was retired, and found in the hands of one Layng, Carloury's agent, and from whom it was *viis et modis* gotten up; and therefore, being *instrumentum apud debitorem repertum, præsunitur solutum*.

ANSWERED,---Though there was a posterior bond given for the £1000, comprehending the 1200 merks formerly lent, yet that was accepted in contemplation it bore the said Mr Alexander to be also bound as conjunct debtor with his brother Carloury; but, after trial, his name was found to be added by forgery; and so, the creditor discovering the cheat, he recurred to the old bond of 1200 merks, the second being null *ob causam datam causâ non secutâ*; and it is enough he is cheated out of the 300 merks of superplus, and its annualrents, by the two brothers, though he lose not the whole. And Layng was writer for Skein, the creditor, as well as for Carloury; and so its being once in his hands infers no presumption of its having been retired by the debtor.

The Lords repelled Mr Alexander's reasons, and found him liable on the first bond.

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1699. November 29. STEVENSON, PITCAIRN, OLIPHANT, &c. against Dr SINCLAIR, &c.

DOCTOR Sinclair, President of the College of Physicians, and some associates, having deprived Doctors Stevenson, Pitcairn, Oliphant, and some others, from being members of that society, for contumacy and other grounds, they give in a bill of suspension against the sentence; and likewise apply to the Lords by petition, representing that the trysting their deprivation at this time was most iniquous and fraudulent; being contrived of purpose to exclude them from having a vote in the election of the preses for the year ensuing, which diet for election was just approaching; and therefore craved the cause might be instantly discussed, that they might not be debarred from the privilege of voting as members of the College. Whereunto the other physicians answering, That they could not be compelled to answer on the suspenders' desire, till the cause came in by the course, especially seeing there were mutual declarators raised, the event whereof would determine their privileges and power;

The Lords found the chargers could not be forced to discuss summarily except they pleased; and therefore refused either to stop or prorogate the diet of the election, or to allow them to sit and vote *medio tempore*; and declined to interpose till the point of right came to be debated.

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1699. December 2. ANDERSON, Notary, fined.

MR Anderson, the notary who made James Chalmers's testament now reduced,