

*damnum et interesse.* And that not being presently liquidated, seeing Barclay's son was yet minor, and could not ratify in his mother's stead, and the provisions were not quarrelled *ex capite lecti*; therefore they allowed Barclay to uplift the principal; for the reason did not stop the payment of the annualrents; he finding sufficient caution to refund, if his son did not ratify, or quarrelled these bonds of provision, at his majority.

*2do.* Compensation was craved on a decret they had against Barclay, for £300, as some years' aliment of his children, and £30 for burying one of them.

ANSWERED,—The bairns were her own grand-children, and so must be *ex pietate avita*; and as to the funeral, no particular account of articles given in.

The Lords would not sustain that ground of the *pietas materna*; but found, —seeing their father was in life, and no paction or agreement was pretended to be made with him,—that no aliment could be acclaimed: But all were clear, that, from the date of the instrument by which he required them back, he was free; and the plurality assoilyied him from the aliment on the ground aforesaid. *Vid. Stair, 21st July 1695, Ludquharne against Geicht*; and *supra, 13th June 1700, M'Lean against Ogilvie*: And found not the grand-mother obliged to funderate the child that died with her, and that the article was moderate; and therefore sustained the compensation *quoad* the £30.

*Vol. II. Page 102.*

1700. July 9.

JOHN CORSE *against* JANET ANDERSON.

IN advising a process, pursued by John Corse in Paisly, against Janet Anderson, relict of John Reid, the Lords discovered, from the probation, that Corse had vitiated a bond granted to him by Reid, and turned the word "myself" to "himself," whereby he had got payment of 1100 merks.

The Lords decerned him to repay that, as *indebite solutum*; and instantly granted a warrant to one of their macers to apprehend the said Corse, and bring him in prisoner to the tolbooth of Edinburgh, that the Lords might punish him for his forgery; and, in regard the witnesses touched one Fork, as somewhat accessory, they gave likewise warrant to put him under caution to appear, under the penalty of 1000 merks, otherwise to imprison him. This was done both secretly and quickly, that no advertisement might prevent their macer; and to discourage falsehood, which is increasing exceedingly. *Vol. II. Page 102.*

1700. July 10.

WILLIAM HAY *against* JAMES BALFOUR.

WILLIAM Hay, Collector of the shire of Aberdeen, having bought the lands of Balbithan, from James Balfour, merchant in Edinburgh, for 40,000 merks; and there being 5000 merks of the price yet resting, he suspends the charge on this reason, That the lands being sold to him on the faith of a subscribed rental, he finds, upon trial, that it falls short 250 merks *per annum*, and therefore he must have retention *pro tanto*.

ANSWERED---Indeed the disposition does relate to a rental; but it is only in