

1743. *December 16.* STRAITON *against* SCOTT of Millbie.

No. 33.

BILL after acceptance went through several indorsees, and was at last paid *supra* protest for the honour of the first indorsee, who repaid it, and scored all the indorsations. Summary diligence was granted at his instance. See No. 9 and No. 10.

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1744. *January 5.*

DRUMMOND of Deanston *against* GRAHAM of Mildowie.

No. 34.

BILL bearing annualrent and penalty not sustained after the acceptor's death, though strongly astructed by parole evidence.

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1744. *February 22.* ROBERTSON and HALIBURTON, *Supplicants.*

AN indorsed bill being accepted *supra* protest for honour of the original creditor, and thereafter indorsed through several hands and paid by the person who accepted, diligence allowed summarily at his and the original creditor's instance against the drawer, but not against any of the indorsees.

No. 35.

The same, 5th *January 1745*, WILLIAM HARRIES, *Supplicant.*

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1744. *June 15.*

STEWART *against* EWING.

No. 36.

BILL on a person who had none of the drawer's money in his hands, but had fish which he sent abroad on the drawer's account, and therefore refusing acceptance, the bill was protested. Afterwards a creditor of the drawer's arrested in the hands of the person on whom the bill was drawn, and he afterwards getting the price of the fish returned to him, a competition arose betwixt the creditor in the bill, who insisted that the bill was a virtual assignation to the price of the fish, and the posterior arrester. The Lords preferred the arrester, because the person drawn on was not bound to accept the bill when it was protested, not having then got the price of the fish. *Vide* Claud Johnston, No. 37, *infra*. (See Dict. No. 82. p. 1493.)