

No 147.

A bill did not arrive till after the term of payment had elapsed. No protest was taken for dishonour, nor intimation given for many months. Yet recourse was found still competent.

1749. June 29. WILLIAM YOUNG *against* GEORGE FORBES.

COLIN CAMPBELL being employed by the Society at London for Propagating the Gospel in foreign parts, as a preacher in Philadelphia, drew a bill upon their treasurer, 26th June 1747, for L. 30 Sterling, payable thirty days after date, to Alexander Forbes merchant in Philadelphia, who indorsed and sent it to William Young, merchant in Aberdeen; and he, 17th August, indorsed it to George Forbes, merchant there, taking his bill for the value.

George Forbes sent the bill to London, where it was dishonoured; but took no protest, nor informed the indorser before the 4th of October.

William Young charged George Forbes on the bill granted by him, who suspended upon the recourse competent to him on the dishonoured bill; which he was not bound to protest, being indorsed long after it fell due.

THE LORD ORDINARY, 8th November 1748, found, That the bill indorsed by the suspender to the charger, as value of the bill charged on, was not duly negotiated; and therefore that there lay no recourse thereon.

On a bill and answers, the LORDS remitted to merchants to report their opinions, which were, that no protest was necessary. But authorities were cited from Japhrae's Treatise of Monies and Exchange; Molloy, b. 2. c. 10. § 27.; and Hay's Negotiator's Magazine, § 33. that when bills do not arrive before the time they fall due, payment ought to be made immediately, and a protest taken, if it is not made; to which it was said, that by these authorities the duty of protesting lay on the indorser, to whose hands, as he alleged, the bill came after it fell due, not on the indorsee who purchased after that time.

THE LORDS, 16th June, found that recourse was competent; and refused a bill and adhered.

A^{ct}. Lockhart. Alt. Burnet. Clerk, Gibson.

Fol. Dic. v. 3. p. 84. D. Falconer, v. 2. No 76. p. 81.

No 148.

A bill was not presented for acceptance, till after the expiry of the days of grace. Although the drawee had no funds belonging to the drawer, recourse was denied.

1755. June 21.

JOHN HART, Merchant in Warrington, *against* JAMES GLASSFORD, Merchant in Glasgow.

WARNOCK, merchant in Glasgow, drew a bill upon Smith, merchant in London, bearing value in his hands, and payable forty days after date, to Glassford, or order.

Glassford indorsed this bill to Hart for value: Before the bill became due Warnock died, being at that time, as was contended, insolvent. The bill, after various indorsations, was, on the third day after the day of payment, indorsed