

age or strength ; but reliefs and warrandice had not, but according to the probability, greater or lesser, of an emergent distress or eviction, which might either exist or not.

*Vol. I. Page 375.*

1684 and 1685. SIR LUDOVICK GORDON of GORDONSTON *against* FARQUHAR.

1684. *February 5.*—THE Lords sustained the improbation of the back-bond produced, by way of exception. Though it was acknowledged to be his real subscription, yet it was alleged to be false *in datâ*. Now the date in several cases is essential ; *e. g.* the antedating writs truly subscribed on death-bed, to make them *in liege poustie*, or to make them prior to another's diligence. But their condescendence that he was in Edinburgh that day, whereas the writ bears to be signed at Aberdeen, was alleged not to be relevant, seeing a man may in a summer's day be in both these places in one day, it being but seventy miles' distance. *Vide* 18th November 1685.

*Vol. I. Page 266.*

1685. *November 18 and 19.*—The case of Farquhar, postmaster in Aberdeen, against Sir Ludovick Gordon of Gordonston, mentioned 5th February 1684, was debated and advised.

The Lords found the back-bond produced by Sir Ludovick upon Sir Robert Farquhar's estate null, because it was proven that it was only a blank sheet of paper subscribed, and the tenor of a back bond afterwards filled up in it ; and that the date bears at Edinburgh, and yet he was at Aberdeen at the time ; and that it had been retired.

It was alleged there was a true back-bond, but it was lost.

*Vol. I. Page 375.*

1685. *November 19.* ROBERT MILN of BARNTON *against* The EARL of ANNANDALE, &c., CREDITORS of HUGH SINCLAIR of BINNY.

ROBERT Miln of Barnton gave in a bill, bearing, that, at the Lords' roup, he had bought the lands of Binny on the late Act of Parliament 1681, and that the writs and evidents of these lands were lying in the hands of Sir Alexander Gibson, clerk ; and craving them up. It was ANSWERED for the Earl of Annandale, and other Creditors of Hugh Sinclair of Binny,—That, under that pretence, he might make a hundred contrivances to embezzle the charter-chest, and to abstract discharges and renunciations of rights which are extinct, and set them on foot again to seclude other creditors, &c.

The Lords granted the desire of his bill ; but ordained some of the creditors to be present, that they might see what he got up, on a subscribed inventory and receipt.

*Vol. I. Page 376.*