and, therefore, they assoilyied Gordon. Some were for examining Birrel, to see what he did with the money; but it was represented that he was dead.

Vol. I. Page 603.

1694. *February* 7. PATRICK BELL, Merchant in Glasgow, *against* WILLIAM COLQUHON of CRAIGTON.

THE Lords found the king's commission to the Earl of Loudon, to sell the annuities, was not restrictive, that they should be only sold to heritors and life-renters, but even to them who had no interest in the land, bearing the words *et aliis;* and that thir annuities are not discharged by the Act of Grace in 1673, seeing they were disponed before it; and that the king could remit none but these which were undisposed on: and found none could be liable for them but only the heritors and possessors for the respective years in which they were acclaimed, they not being *debita fundi,* but only *fructuum:* but in regard there was yet 600 merks of the price in the buyer's hand, allowed the disponer to be cited *incidenter* in this process, to answer why a part of the said price should not be made forthcoming for the annuities of these years wherein the disponer possessed, after deduction of purging incumbrances, and other real burdens affecting the land. *Vol. I. Page* 603.

1694. *February* 7. MR WILLIAM IRVING *against* JOHN IRVING of DRUMCOLTRAN, his Father.

THE Lords found it no sufficient probation of majority, that, at the time of his subscribing the discharge to his father, he was laureat, and passed the college, and had been at a writer's chamber; and, therefore, allowed him to prove his minority, he always instructing that he had revoked, or intented a reduction of it, *intra annos utiles:* and found it was not so *in rem versum* as to hinder his reduction, that the sum in the discharge was for his apprentice-fee; because it is a *debitum naturale* on a parent to educate their children; and lawyers think the *impensæ* bestowed that way *nec veniunt in computationem legitimæ nec in collationem bonorum.* As to the 500 merks which the father left to the determination of friends, the Lords ordained them to be charged with horning, to meet and give their opinion.

And, *quoad* the last article of his share of his sister's portion of 2000 merks, it was argued, that the term of payment being her marriage, and she dying unmarried, it was a conditional bond, which never took effect, but evanished; so that the marriage was not merely the term of payment, but the term of existence of the obligation.

ANSWERED,—There was a substitution in the bond of provision; for, though it was not payable to her till after her marriage, yet it bore, that, failing of her, it should fall to her brother, where the clause of her marriage is not repeated; and, in pupillar substitutions, the substitute took place though the institute did not.

The Lords thought the clause dubious; but, in regard the father was alive,