

blank, but do not remember if it was delivered by Samuel, or the writer, to the Bailie. And Raploch having condescended on the onerous cause of the discharge, for that it was granted by a conjunct person, and offered to prove the same, the Lords resolved to examine Samnel; and he, being abroad in Holland, ordered the bill to pass, and Raploch to be set at liberty, upon granting a disposition conform to the act of sederunt, although the act declares that persons imprisoned are not to be set at liberty upon juratory caution; but Samuel's absence was the special motive.—*March 1683.*

Thereafter the suspension being discussed, and the oaths of Bailie Hall and the writer advised, who deponed that the bond was drawn and signed for the use of Bailie Hall, to whom Samuel owed a considerable sum of money, and that the bond was delivered to Edmiston or Samuel, to be delivered to Bailie Hall;—the Lords found, That although, when parties received blank-bonds at the second hand, from another creditor that took it blank, the second creditor ought to intimate it as an assignation to secure against the deeds of the first creditor, yet that a bond delivered blank to the first creditor needs no intimation; and therefore found the letters orderly proceeded.—*February 1684.*

*Nota.* This seems to frustrate diligences against blank-bonds; for the receiver of the blank-bond, to save the necessity of intimation by a second creditor, may allege that it was designed, *ab initio*, for that creditor or any other he pleases; and so it passes through many hands, and is secure upon that pretence; so, at least, it should be declared before the witnesses of the bond, to whose behoof it is taken, *ab initio*, otherwise the receiver of the bond to be reputed the first creditor.—*Castlehill's Pratt. tit. Bonds, No. 145.*

*Page 40, No. 184.*

1684. *February.* POURIE *against* The LADY ROSS and her CHILDREN.

A MINOR having granted to his tutor a general discharge, with consent of his curator, who likewise took burden for his pupil,—the Lords found, That, if the minor should quarrel the discharge, as not proceeding upon a full charge, the tutor might recur against the curator; and that the curator, as in the case of a cautioner, had not the benefit of the personal exceptions of minority, &c.

*Page 57, No. 240.*

1684. *February.* SIR ALEXANDER HUME *against* WILSON.

IN a removing, at the instance of an adjudger, against the debtor's heir, the defender desired a locality might be assigned to the pursuer at the sight of the Lords, conform to the Act concerning debtor and creditor; 2. He alleged the adjudication was null, for that it adjudged for principal, annual-rent, and penalty, and a fifth part more; and consequently for more than was due. Answered, 1. The clause in the Act Debtor and Creditor, concerning localities, was temporary—and relative only to these comprisings whereof the legal was prorogate,