No. 2. or to Mr. John, his son, appointed by the bond to have it after Mr. Andrew's decease? All the Lords found, That Mr. Andrew, in his own life, might have disponed upon the sum, received it, discharged it, assigned it, and that it might have fallen under his escheat, or might have been comprised or arrested for his debt; and therefore, that it was his proper sum, fell in his testament, and belonged to his executor or legatar, and not to his son Mr. John; and declared, that they would observe the like manner of decision in all bonds conceived in the like terms, for many causes and respects proponed by the Lords at the reasoning of the cause. Thereafter, the parties submitted, and the Lords agreed them amicably.

Haddington MS. No. 2781.

1625. *January* 18. WATT *against* DOBIE.

No. 3.
Found the reverse of the above cases.

In an action betwixt Watt and Dobie, for registration of an obligation, made by umquhile Sir Robert Dobie, whereby he was obliged to pay to one Watt a sum of money at a term, and failing of Watt by decease, to pay the same to another person designed in the bond, and to his heirs, with ten for each hundred for the annual-rent thereof, so long as it should be unpaid; which bond being desired to be registrated at the instance of that second person mentioned in the bond, the first person being deceased; the Lords sustained the action at his instance, and found, that the right of the bond, and sum therein contained, pertained to him; albeit it was alleged for the defender, that seeing the first person in the bond lived after the term of payment appointed by the bond, and that the destination of the second person therein contained depended only, and would have taken effect only, in case the first person had died before the term appointed by the bond for payment of the sum, who living thereafter, the right of the sum ought to appertain to his heirs or executors, and not to the alleged second person substituted in the bond, who now pursues: Which allegeance was repelled by the Lords, and the sum found to appertain to the person substituted, as said is.

This decision appears to be directly contrary to the decision in the action betwixt Mr. John Leitch and L. Balnamoon, whereof mention is made 22d February, 1623, No. 2. p. 14845.

Clerk, *Scot.*

Fol. Dic. v. 2. *p.* 395. *Durie, p.* 157.

1634. *June* 26. KEITH *against* INNES.

No. 4.
Found again the reverse of No. 1. & 2.

The debtor being obliged to pay a sum to his creditor, at the term contained in the bond, and, in case of failzie, to his son, named in the bond; and the father, who was principal creditor, living divers years after the term of payment,