

gence that it might be legal. Put the case he had employed you to lend out 5000 merks on security, and you had taken a bond from the debtors, either holograph, or without designing the witnesses, would not you have been liable to make up his damage, if the bond had been found null, or not probative; and even so here. The *lex aquilia* made a chirurgion *qui imperite venam secuit* liable in the expense of the cure, and why not you; *nemo debet affectare seu profiteri id quod ignorat*. THE LORDS, by plurality, found Mr Fullarton the writer liable to relieve Wood, which was looked on as a new decision, but judged necessary to cause men in public offices look better to the discharge of their duty, that the lieges do not suffer by their carelessness and sloth, to give it no worse name.

No 47.

*Fountainball, v. 2. p. 601.*

1725. July 27.

ARCHIBALD ROBERTSON, Merchant in Edinburgh, *against* Messrs GIBSON and HALL, two of the Principal Clerks of Session.

No 48.

UPON occasion of a complaint's being exhibited to the Lords by Mr Robertson, setting forth, That he had given in a bond, which had been assigned to him, to be registered in the Clerk's Office, and that he could not, for the space of some months, obtain an extract of it, though it had been often required; and that arrestment having been used in the debtor's hand within that time, he was in hazard of losing his money; concluding, That the Clerks, on account of this malversation, should be liable for the sum in the bond;

It was found, That the Clerks were obliged to give out extracts of bonds, or other writs, 24 hours after they were given in to be registered; but if the presenter of the bond, or other writ, should intimate to the Clerks that there was *periculum in mora*, in that case, the same ought to be given out without delay.

THE LORDS, upon another application, found the Clerks liable in expenses to the complainer.

Reporter, *Lord Cowper.*

For the Complainer, *And. Macdonald.*

Alt. *Ja. Fergusson.*

Clerk, *Justice.*

*Fol. Dic. v. 4. p. 232. Edgar, p. 202.*

1741. July 29.

SUSANNA RAE, Complainer.

A WRITER to the signet having received from the complainer 10s. Sterling, in order to obtain a suspension for her, and accordingly presented the bill, which was past, but neglected to be expedite, for this reason given by him in excuse, that the money received was not sufficient for expediting the bill, but

No 49.