

(DUE TO CAUTIONERS, &amp;c.)

No 64.

THE LORDS found, That the defenders were not liable to pay the annualrent, for the sum decerned, from the time of the designation; seeing *usura debentur* only *ex pacto vel mora*. Albeit it may appear, That that relief that is due *ex lege* is at least also effectual, as if it were *ex pacto*; and the very notion of relief imports that the party should be relieved of all damage sustained by him: And the pursuer was prejudged, not only by the want of the value of what he was to be relieved of, but of the interest of it.

Clerk, Gibson.

*Dirleton, No 352. p. 168.*

No 65.

Found, That an answered letter of credit, with the possessor's receipt thereon, did bear interest like a bill of exchange.

1682: *March.*SIR JOHN FALCONER *against* L. of GRANT.

FOUND that an answered letter of credit, with the possessor's receipt thereon, did bear annualrent, like a bill of exchange, from the time of the advancing of the money, though Major Grant, the receiver thereof, was dead, and the writer of the letter of credit had no prospect of relief; and that the letter of credit did not prescribe in twenty years, as a holograph missive letter, the same being of a date anterior to the act 1679, and not so many as twenty years elapsed since the act. (*See PRESCRIPTION VICENNIAL.*)

*Fol. Dic. v. 1. p. 44. Harcarfe, (BILL of EXCHANGE.) No 160. p. 35.*1683: *March.*CORNET MURRAY and his LADY *against* her SON.

No 66.

FOUND, that when a tutor pays out sums of his own for his pupil's affairs, he ought to have allowance of annualrent, till the time he had or might get in the pupil's annualrents; as was found in Patrick Tailfer and Sandiland's case.\*

*Harcarfe, (TUTORS and CURATORS.) No 974. p. 276.*1714. *December 1.*BAILIE SMITH'S CHILDREN *against* The EARL of WINTON.

No 67.

The managers for a person of quality abroad, advanced money to a man to travel to him on business.

THE said James Smith having served the late Earl of Winton for many years in quality of factor, or chamberlain, the present Earl being beyond seas when his father and brother died, and not having even then returned, it was concerted at a meeting of some of his Lordship's friends, That Seton of Tough, and upon his declining the office, Sir Walter Seton, one of their number, should go abroad in quest of the Earl, in order to inform him of the state of his affairs, and to ac-

\* Examine General List of Names.