

son ; see Matheus and M'Keinzie in their Criminals, as to deeds done *ab cbris* ; and that we have no reduction of deeds done in drink, by our law.

Forret refused to sustain the reason. Yet it deserves to be considered : for if I can reduce a deed upon fraud and circumvention, can there be a more pregnant qualification of circumvention than to drink one senseless, and then cheat them ? which is not to be tolerated nor encouraged by denying remedies against it. See Dury, 5 December 1626, *Shaw* and *Balfour* ; where drunkenness, with not being read, is sustained to take away a discharge ; and Craig's Disposition to Pittarrow reduced, *ex capite ebrietatis*, in Parliament 1661 ; *vide supra*, [Vol. II. page 290.]

*Advocates' MS. No. 594, folio 292.*

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1677. July 7. The LAIRDS of CONGILTON, BEINSTON, and GOURLAY-BANK, competing.

IN the mutual declarators of property, pasturage, and commonty, pursued by the Lairds of Congilton, Beinston, and Gourlay-bank, against one another, the Lords having advised the commission reported, with the haill depositions taken thereon, Congilton gained the haill points of it against the other two. In this cause, there fell a great debate about the vulgar appellation of a piece land wrong designed.

*Advocates' MS. No. 595, folio 292.*

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1677. July 10. WALTER YOUNG *against* JAMES WILSONE, &c.

IN an action of Walter Young, the son, against James Wilstone and sundry others, the Lords finding that James Duncan, agent in the cause, and formerly servant to Sir Andrew Birny, had forged an execution of the summons, and thereon stolen furth a decreet against sundry pretended debtors ; they made a most strict act of Sederunt, (see my Collection of these acts,) against all indorsations on summonses in time coming ; declaring, they will not only find them null, though they be only for the first diet, but also punish the formers thereof. See M'Keinzie's Observes on the act of Parliament 1621, against bankrupts.

*Advocates' MS. No. 597, folio 292.*

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1677. July 10. The EARL of ROXBURGH *against* JAMES HAMILTON.

THE Lords having advised the probation in the action between the Earl of Roxburgh and James Hamilton, merchant, they found the probation led by James anent the insufficiency of the bear offered to him, more pregnant than the Earl's probation, and so assoilyied him from so much of it. *Vide infra*, July, 1677, *Sir A. Ramsay* against *William Auchinleck*, No. 623.

*Advocates' MS. No. 598, folio 293.*