No. 2. 1751, Dec. 20, 21. MACDONALD *against* HIS MAJESTY'S ADVOCATE.

DONALD MACDONALD of Clanronald, jun. son of Ronald Macdonald of Clanronald, being attainted by act of Parliament, the Barons of Exchequer caused survey the estate of Clanronald as forfeited;—and two claims were entered, one of the liferent by Ronald Macdonald of Clanronald, his eldest son, now in France, (from whom a factory for that effect was produced) of the fee, and their charter of the estate was produced, which was to Donald Macdonald of Clanronald in liferent, and after him to Ronald Macdonald his son in liferent, and to Ronald Macdonald son to the said Ronald Macdonald and his heirs in fee, which failing to Donald Macdonald, second son to the said Ronald. Answered as to the fee, the claimant was the person meant to be attainted, and though there is a difference in one single letter of the Christian name, D instead of R, yet the rest of the description sufficiently ascertained the person, and a misnomer cannot be pleaded or objected to an act of Parliament where the person is otherwise sufficiently described, and instanced the judgment of the House of Lords in the case of Pitsligo. But the Court sustained the claim, *renit* Leven *et* Justice-Clerk, (the President was not with us, nor Kilkerran.) I agreed that it was improper to speak either of nullities or misnomers in acts of Parliament: An act that has the consent of King, Lords, and Commons must bind all the subjects, and cannot be set aside or reduced on nullities; and a misnomer supposes that it certainly and legally appears who was the person intended though misnamed, and if that appear the act must bind him, and the Courts must judge according to the known and legal meaning of the act; and therefore I was of the opinion that was afterwards confirmed by the judgment in the case of Pitsligo, because however it was not his legal name given him by his patent, yet it was the name he was commonly known by, that he generally assumed to himself even in solemn deeds, and that was commonly given him even in the records of Parliament. That name and designation, therefore, in every part of it agreed, and it agreed to none other, which was sufficient legal evidence of the person intended by the act;—but in this case the name in the act did not agree to the claimant; that though the two names differed only in one letter, yet they were in reality as much different names as Alexander and Thomas in the case of General Gordon, and that difference was known to the Legislature as appears by this act where both names are mentioned, and it agreed as much to his second brother as to him, for his name is Donald, and is son to the same Ronald, only he is not junior of Clanronald, and if this claimant had been dead at the date of the act, it would have agreed wholly and only to him. In this case, as Lord Advocate would not admit the fact that the claimant's name is truly Ronald notwithstanding the charter produced, his lawyers said it would be proved by persons of credit in Court, and prayed they might be called and examined; and accordingly, before advising the debate, we took the deposition of three witnesses, Mr John M'Kenzie and Rorie M'Leod, writers to the signet, and of M'Kenzie of Redcastle, whereby the advising was delayed till 21st December.

No. 3. 1752, Dec. 26. SHARP of Hoddam *against* CREDITORS of MOSSKNOW.

A BOND being granted in 1683 by Robert Telfer as principal, and William Graham of Mossknow as cautioner, wherein one of the two witnesses is designed John Agnew,

brother-german to William Irvine of Bonshaw, on which inhibition followed, which was afterwards corroborated, and the annualrents accumulated, by the cautioner in 1699 and 1703;—the inhibition being objected to, for that the bond 1683 was null, there being no such person as John Agnew, brother-german of Irvine of Bonshaw;—answered, It was only a mistake in calling him brother-german instead of brother-in-law, and that error could not annul the bond; 2dly, homologated by the two corroborations; 3dly, one of the brothers may have changed his name. We found the bond void and null, and the inhibition on it, unless the creditor would prove that such was the witness's name and designation; *referente* Woodhall. As to the homologation we found that the inhibition must stand or fall with the bond 1683; and at the same time that these corroborations would not even bind the cautioner, if the bond was void as to the principal.

No. 4. 1753, July 5. CREDITORS of LORD RUTHVEN, *Competing.*

THE College of Glasgow were creditors by bond in 1732, wherein he designed himself James Ruthven of Ruthven, having not then taken the titles, and in 1746 they adjudged from him under the designation in their bond, and had the first effectual adjudication. In 1733 or 1734 he took the title of Lord Ruthven, and the other creditors adjudged under that title. Mr Moncrieff being without the year and day of the College's adjudication, objected to it as upon an erroneous designation, or if it was right, then objected against the others that they were erroneous and void. But upon report of Lord Minto both objections were repelled.

No. 5. 1753, July 6. PROVOST HAMILTON *against* DALGLIESH.

WE sustained an objection against a process of sale where the defender was called George Hamilton, though his true name was William, and the same error was in the decreet of adjudication whereon the process of sale proceeded.

*** See the case of Barisdale in Notes, *voce* FORFEITURE.

FEU.

No. 1. 1736, Nov. 24. DUNDONALD *against* ELIZABETH BARR.

THE Lords found the relief due to the superior in feu lands, unless where there is express provision for it in the feu-charter. We had no regard to the specialties alleged in this case, but determined the general point.

FEU-DUTIES.

No. 1. 1738, June 27. CREDITORS of POLDEAN *against* SHARP.

THE Lords this day again found as they had done some years ago, (though I remember not the year or parties,) that feu-duties not separated from the superiority by decreet