

1772.

CHRICHTON *against* SYME.

CHRICHTON pursued Syme on a missive for relief of cautionry. Syme suspended, and pleaded that the missive was not holograph nor tested in terms of the Act 1681, and, not being *in re mercatoria*, was void and null. The Lords, 21st July 1772, found so; and that it could not be supported by referring the verity of the subscription to Syme's oath. The cause came before Lord Justice-Clerk, who took it to report on information. The Lords ordered additional memorials, and then decided. "They sustained the reasons of suspension, suspended the letters *simpliciter*, and decerned."

Had it been *in re mercatoria*, the missive would have been sustained, *Clark* against *David Ross*, papers dated summer 1778.

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1763. *January 28.* ——— *against* YOUNG, &c.

In a reduction of a discharge of a trifling legacy of £20 Scots, *inter rusticos* nearly connected, the Lord Auchinleck, Ordinary, by interlocutor, pronounced this judgment:—"Having considered the debate, the smallness of the sum, the relations of the parties to one another, and their rusticity, sustains the defence of the discharge produced, and assoilyies the defender, and decerns." But his Lordship altered, and "Having considered the positive enactment of the statute 1681, which does not appear from the practice of the Court to have been departed from in cases such as the present, finds the writing founded on by the defenders, as a discharge, is null." The Lords refused a petition, without answers, and adhered. The reduction was at the instance of a creditor of the legatee.

1762.

MARGARET BUCHAN *against* JOHN GOUCK.

A PERSON having subscribed an assignation in this manner, *viz.* by filling up scores, drawn by a third party, the assignation found null. See Dict., Vol. II. p. 533, *Pringle* against *Keill*; *Falconer*, 28th November 1750, *Crosbie and Pickens* against *Pickens*. The interlocutor, Buchan against Gouck, was "on report of the Lord A . . . The Lords find the reasons of reduction of the assignation quarrelled, as not being properly subscribed by Christian Buchan, relevant and proven, and therefore reduce the same and decern." Decided *anno* 1762. Informations dated January 1762.