

clared. Which seems not to want its scruple. This I read in the President's collection of decisions. *Advocates' MS. No. 604, folio 293.*

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1677. *July.*

THE Lords made an act discharging the clerks to give up the principal minutes to the parties, or their advocates ; because thereby the extracting of acts is oftentimes much retarded. *Advocates' MS. No. 605, folio 293.*

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1677. *July 17.*

THE Lords were this day upon an act of Sederunt, that the clerks to the bills should be liable for the responsality of the cautioners received, and that *in subsidium*. See this debate in another paper-book.

*2do*, That bills of suspension within eight days after presenting, if they be not past, or an act in them, the charger shall, *ipso facto*, have liberty to proceed in his diligence without any more.

See my summary of the Sederunt-books.

*Advocates' MS. No. 606, folio 293.*

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1677. *July 17.* M'KEINZIE of Suddy *against* ROSSE of Kilraick.

A WIFE called Margaret Anderson, being liferentrix of lands, does, with consent of her husband, assign and dispoise her liferent right in favours of another person ; he transfers it to a third, and a third to a fourth. This fourth grants a backbond to the husband, declaring, that for onerous causes, the right of the liferent is the husband's.

This was quarrelled, as *donatio inter virum et uxorem*, in construction and interpretation of law, though done *per interpositam personam*, and so, as revocable *tacite vel expresse*, since *quod non licet directo, nec per obliquos licebit cuniculos*.

ANSWERED,—It had gone through many hands, and past to singular successors. *2do*, Its returning to the husband made it not a *donatio* ; because *ab initio*, (which is ever to be attended,) it was not a donation flowing from the wife to the husband, *stante matrimonio*, but was come in his person, for some new onerous cause.

The Lords found the conveyance was to be presumed to have been merely done *animo fraudandi legem* ; and wherever appears a design *fraudem legi facere, ejusque mentem circumvenire*, there it annuls the deed ; and found it was *vitium reale* that followed and affected it *per mille manus* ; and so declared it to be a donation and revocable.

They had decided the same thing formerly in *Wolmet's case*, in 1663. See *Alex-*