

got sundry very intricate unclear oaths advised, *affirmative*, proven, or *negative*, not proven, with close doors, without calling the parties or their procurators, the next Saturday after they had deponed.

Nota.—The Lords not only sat in the afternoons oft to advise concluded causes, but also sequestrated the Tuesday forenoons to bring them forward, and to despatch such causes.

Advocates' MS. No. 547, folio 275.

1677. *February 23.* SARAH ROOME *against* —————

IN Sarah Roome's case, the Lords preferred a creditor to a provision made in a contract-matrimonial in favours of a child of a second marriage, albeit there was an inhibition served upon the said obligation, and the creditor's debt was contracted after the said inhibition; because they found the obligation was only a naked destination, and the inhibition could only reach, prevent, and cut off posterior deeds in favours of another third wife, or of other children, and not of extraneous creditors; else such obligations would enervate all commerce, and would hinder a father from contracting onerous debts. However, this decision evacuates provisions matrimonial sadly. *Vide supra, June, 1676, Catharine Mitchell and Littlejohns; and December, 1676, No. 524, inter eosdem.*

Advocates' MS. No. 549, folio 277.

1677. *February.* LORD NEWBYTH *against* JAMES STEWART

JAMES STEWART having a wadset on the lands of Foord, my Lord Newbyth, who had purchased them lands by a declarator, contended they were paid by intermission; and if anything was owing in the count and reckoning, offered to give it in; since he had a very lucrative wadset, and much beyond the annualrent of his money. ALLEGED,—He was not bound to count for the superplus, because his right was a proper wadset, nowise liable to count and reckoning, by the 62d act of the Parliament 1661.

Advocates' MS. No. 550, § 2, folio 277.

1677. *February.* THE MARCHIONESS of DOUGLAS, Petitioner, and
ISOBEL HADDOWAY, Petitioner.

THE Lady Marquis of Douglas obtained at Secret Council modified to her 2000 merks, for aliment till the first of June, since she did not cohabit with her lord, in respect of some differences betwixt them.

About the same time, one Isobel Haddoway gave in a bill to the Lords of Session against Maccubi, merchant in Edinburgh, her husband, complaining that he