

1697. December 14.

CHRISTIAN LAWSON *against* The CREDITORS of LINDSAY of Pyeston.

It was a nullity and objection against her father's inhibition, that the execution had only Alexander, and wanted the word Lawson in the body, but it was interlined. *Answered*, In the register where it is recorded, it is fair and clear, which proves this was so when it was given in to be registered, and is not a vitiation since. Neither is it material though one's name be omitted, if it be mended; and what if it had been inserted on the margin; for it is certain he had some surname, and it cannot be pretended this is disconform to the letters of inhibition. THE LORDS looking to it, found it no superinduction upon another name, which would be a suspicious rasure and vitiation, but only a mere omission of the surname, which was supplied by interlining it; and therefore repelled the objection and sustained the inhibition.

*Fol. Dic. v. 2. p. 153. Fountainhall, v. 1. p. 802.*

1701. June 20.

BROWN *against* HERRIES.

ROBERT BROWN merchant in Dumfries, as a creditor, raises reduction of a disposition of a house made to one Herries, on this reason, that in the onerous cause there are two lines wholly delete, which not bearing to be done of consent, must annul the hail. *Answered*, This is not properly vitiation, which is the changing of one word into another, but only a scoring of a clause not agreed to, and which deletion has been done of consent, though through ignorance not so marked, by a marginal signed note, as it ought to have been, yet it is still legible, and only obliges him to pay L. 100 and odds to Thomas Gladstones, &c. which he is content to do, as if it had not been scored; indeed, if it could not be read, there would be more ground of suspicion, as was lately found betwixt Dr Scot and James Bayne the wright, (*see APPENDIX*); but here it remained legible, and he was willing to perform it. *Replied*, If all the penalty of such vitiations were to be liable to the clause, as if it had not been obliterated, it might encourage such attempts, and we should daily see more vitiated papers; therefore they who venture on such tricks ought to have no benefit by that writ at all, seeing they have an easy remedy, either to transcribe that sheet over again fair, and *in mundo*, or, if the affair required haste, then to add in the margin, that so much is delete of consent; and if he has paid an adequate price for the land, then that will sustain without the disposition. THE LORDS reduced the disposition, but prejudice to him to insist on any other documents for astructing his right.

*Fol. Dic. v. 2. p. 153. Fountainhall, v. 2. p. 114.*

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Two lines in the onerous cause of a disposition being delete, not bearing to have been done by consent, the disposition was reduced *in toto*.