

As the chief instruction that can be got from this decision concerns the vitiation of writs in appearance legally completed, I take this opportunity to illustrate a doctrine of some importance. It is laid down in the Doctor's reasoning, that in a civil court the vitiation of a writ cannot produce any further effect than to deprive the wrong doer of the benefit he proposed to himself by the vitiation. The proposition, for the reasons assigned by the Doctor, appears to hold true universally at common law. And it also holds true in equity, where, as in the present case, a right, once fairly established, cannot be taken out of the way otherwise than by a reduction. For it is not in the power of a Court of equity, more than of a civil Court of common law, to forfeit a man of his right because of any transgression. But in a matter of obligation, which requires to be made effectual by a process, a Court of equity can and ought to extend its power further. Thus, a bond which was made the foundation of a process for payment, being found vitiated in the sum by superinduction of pounds for merks, was refused to be sustained even for the original sum. 26th November 1723, M'Dowal of Garthland *contra* Kennedy of Glenour, Sect. 12. *h. t.* For a Court of equity may justly refuse its interposition for making a bond effectual to a pursuer who has falsified the same, leaving it upon the debtor's conscience to pay what is justly due. And the like decision was given 10th of February 1636, Edmonston *contra* Syme, Sect. 12. *h. t.* with respect to a bond antedated in order to save from inhibition; for the Court denied action upon this bond.

No. 176.

Sel. Dec. No. 163. p. 223.

1760. November 19. SHEPHERD *against* INNES.

In a reduction of bills granted for an apprentice fee, the objection that the original indenture had never been stamped, was repelled.

No. 177.

Fac. Coll.

* * This case is No. 8. p. 589. *vide* APPRENTICE.

1774. August 3. THOMAS LAIDLAW *against* MUNGO PARK.

Park being sued, as representing the deceased John Park, for payment of a bill which John had accepted for £50 Sterling, payable to Laidlaw, pleaded, That the bill was not actionable, as being vitiated *in substantialibus*.

It was admitted, that the sum of the bill, as originally drawn by the pursuer, was £60, and in that shape having been sent to John Park, by the pursuer's wife, to get it accepted, the account given of the superinduction that now appears in it

No. 178.
Whether the superinduction in a bill, of a less sum than what the original still legibly was, vitiates the