1711. *January* 23. WILLIAM Ross of Aldie, *against* CHARLES Ross of Ey.

No. 84.
A precept of warning found null, because the writer, though named therein, was not designed in terms of the act of Parliament.

In a removing at the instance of William Ross, against Charles Ross, the Lords found the precept of warning null, for that the writer, though named therein, was not designed in the terms of the act of Parliament 1681: Albeit the pursuer alleged, That statute did not extend to such writs as by former custom required not the writer's designation, viz. bills of exchange, holograph writs, receipts by masters to tenants, and precepts of warning; but hindered only to supply by a condescendence the designation of a writer, that law and former custom required to be designed: In respect it was answered for the defender, That the act is general and comprehending all writs; and custom hath introduced no exception of precepts of warning; though bills of exchange, receipts to tenants, and holograph writs, are excepted by the general custom.

Forbes, p. 483.

1711. *July* 3.
WILLIAM SHORT Wright in Edinburgh, *against* WILLIAM HABKIN Belt-Maker there.

No. 85.
A decreet-arbitral found null for want of the writer's name and designation.

In the suspension of a charge upon a decreet-arbitral, at the instance of William Short, against William Habkin, the Lords found it to be a nullity in a decreet-arbitral, that it wanted the writer's name and designation, albeit it was alleged for the charger, that the 179th act, Parl. 13, James VI., *in anno* 1593, which requires the writer of all writs and evidents to be named and designed, relates only to private writs, such as original charters, contracts, obligations, reversions, assignations, particularly therein enumerated, and not to decreets-arbitral, which are not mentioned, nor of the nature of those mentioned, and must have the same effect with other decreets, or public writs; for though a decreet-arbitral is not a judicial act in a strict sense; yet arbiters being vested by law with sufficient authority to determine in matters submitted to them, their decreets have all the effects of any judicial decreet, and may in some sense be reckoned judicial acts. "Arbitraria ad similitudinem judiciorum redacta sunt, quatenus idem utrobique agendi, excipiendi, probandi, Ordo, idem litis finiendæ tempus, L. 1. D. De receptis et his qui arb. Again, Arbiters being authorized to proceed with more latitude than ordinary Judges, viz. *secundum æquum et bonum;* and seeing the act of regulation 1695, declares decreets-arbitral unquarrellable upon any cause or reason whatsoever, except that of corruption, bribery, or falsehood; such decreets ought to meet with all imaginable allowances of favour. In respect it was answered for the suspender, That only acts of office, as writs under the hands of common clerks or notaries relating to their respective offices, require not the inserting the writer's