

[This was universally rejected, as reprobating all arrestment on a dependance, and all claims on a decret in absence.]

On the 26th February 1779, "The Lords preferred George Goldie;" adhering to Lord Auchinleck's interlocutor.

*Act.* A. Elphinstone. *Alt.* A. Crosbie.

1779. February 26. CREDITORS of Patrick M'Dowal *against* CHARLES MAC-DOWAL.

ANNUALRENT.

The Lords found, that distressed cautioners were entitled to charge interest upon interest.

[*Fac. Coll. VIII. 31; Dict. 532.*]

BRAXFIELD. When Mr Charles M'Dowal obtained his decret of valuation, the chequer was closed. I consider that decret as equivalent to a decret of sale at that period: all debts are innovated and all accumulated. If Mr M'Dowal, being cautioner for his father in L.1000, has paid L.100 of interest, and L.100 of interest is still due, he states himself creditor for L.1200: he can get *that*, and he can get no more: he cannot afterwards make any farther claim.

On the 26th February 1779, "The Lords found that the debt must be struck as at the time of the decret of valuation;" varying Lord Kennet's interlocutor.

*Act.* Ch. Hay. *Alt.* G. Ferguson.

1779. February 26. MESSRS M'CLURE and M'CREE *against* JOHN PATERSON and OTHERS.

PACTUM ILLICITUM.

Sale of Smuggled Goods.

[*Faculty Collection, VIII. 138; Dictionary, 9546.*]

BRAXFIELD. The subject of the present action is foreign spirits, in circumstances not enterable. The purchase was made on board a ship: no action can lie against the purchaser, because this is a *pactum illicitum*, and inferring a moral turpitude. I do not enter into the distinction between a *malum*