

1775. *March 2.* M'MASTER *against* FORSYTH.

M'MASTER commissioned from George Muir, merchant in the Isle of Man, a puncheon of rum and two casks of brandy. William Forsyth, having a vessel employed constantly in transporting goods betwixt the Isle of Man and Scotland, was employed to bring over the spirits, which were duly delivered to him; but he, instead of twelve and a half ankers of rum, and two casks of brandy, delivered only eight ankers of rum, and none of brandy. For the deficiency, M'Master brought an action before the Sheriff of Galloway. The Sheriff decerned; but Lord Elliock, Ordinary, 25th January 1774, suspended the letters *simpliciter*. And the Lords, 2d March 1775, adhered, and gave expenses. They considered the contract as a *pactum illicitum*, as a smuggling contract, not only defrauding the revenue, but counteracting a positive statute, Geo. I, c. 28, § 22, prohibiting such species of goods to be imported from Man into Britain; and that it was impossible that the same law which prohibited importation, could sustain action for breaking bargain concerning it.

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1774. *July 30.* JONATHAN FORBES *against* GEORGE BEAN.

IN an action brought at the instance of Jonathan Forbes of Wellfield against George Bean, writer in Inverness, founded upon the Act, 4th P. J. VI. c. 216, against buying pleas; the libel concluded, *1mo*, That the conveyance granted should be declared void and null; and, *2do*, That Bean should be declared incapable of acting in any Court of Justice. In the course of this plea, it was doubted if the act extended to procurators before inferior courts; but it was thought that it did extend to them. It was doubted also, if it extended to the case where a plea, before the sale, was submitted to an arbiter, and if it did not thereby cease to be a plea. But Mr Bean's solid defence was this, That the right taken by him was from an old woman, whom he had not only alimanted, but laid out money in carrying on her plea, and was taken in security and payment of the sums so laid out *ab ante*; and therefore, that it did not fall under the Act of Parliament. The Lord Kennet, Ordinary, 17th December 1773, assoilyied Mr Bean; and the Lords adhered, and gave expenses.

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1774. *December 16.* MAXWELL of DALSWINTON *against* The TRUSTEES of BLAIR of DUNROD.

MAXWELL of Dalswinton having pursued the Trustees of Blair of Dunrod for payment of a sum of money lost on a horse-race between them from Dum-