

Verdict—" For the defender, Thomas Rule."

BRYDON
v.
BRYDON'S
EXECUTORS.

Cockburn, for the Pursuer.

Jeffrey and , for the Defender.

(Agents, *Alex. Blair*, w. s. and *Johnston & Little*, s. s. c.)

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PRESENT,

LORD CHIEF COMMISSIONER.

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BRYDON v. BRYDON'S EXECUTORS.

1822.
July 17.

REDUCTION of a codicil.

ISSUES.

" Whether, on the 14th day of November
" 1818, at the date of the codicil under reduc-
" tion, alleged to have been executed by the
" deceased Robert Brydon, formerly at Green-
" end, in favour of the defenders, the said Ro-
" bert Brydon was not of a sound and dis-
" posing mind, and was incapable of under-
" standing his affairs ?

" Whether the said codicil was prepared and
" drawn out without instructions from the said
" Robert Brydon ?

" Whether the said codicil was not read over

Found, that a
person was of a
sound and dis-
posing mind,
and that it did
not appear that
a codicil had
been drawn out
without instruc-
tions, &c.

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“ or explained to the said Robert Brydon,
“ or was not read by the said Robert Brydon
“ before he subscribed the same ?”

A party produc-
ing one letter
not bound to
produce others,
if it is intelli-
gible without
them.

When one letter was given in evidence,
Cockburn, for the defenders, They are bound
to produce the series of letters referred to.

LORD CHIEF COMMISSIONER.—After hear-
ing this letter read, if it is not intelligible
without another, I will order that other to be
produced.

After hearing the contents of the letter, his
Lordship stated, That he did not see any reason
to order production of the others.

Moncreiff, for the pursuer.—This is to set
aside a deed, which altered a prior and a ra-
tional deed.

From the state Brydon was in, he could not
give instructions for the preparation of the
deed ; and we shall prove that it was not read
in presence of the instrumentary witnesses.

Cockburn.—The questions here are, Whe-
ther this person was capable of expressing his
will ? and the presumption, both of law and
sense, is in favour of capacity ; and the deed
being written by a man of intelligence and cha-

racter, the presumption is also in favour of instructions having been given.

It is not necessary that a deed should be read in presence of the witnesses.

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LORD CHIEF COMMISSIONER.—This is a very short case, and I shall not go through the whole evidence. Law presumes all to be properly and fairly executed, and, in England, it is a trite maxim, that, to get the better of the presumption, you must hit the bird in the eye. All that was made out by the first two witnesses was, that the person wandered sometimes; but after them, you have a witness more capable of giving information, who swears that Brydon had a complaint in his mouth, which rendered it difficult to understand what he said, but that his mind did not waver till within a month of his death. It is impossible for me to doubt in this case, but you are to consider the whole testimony.

If the deed is fair, and the party capable of understanding it, the law will presume that it has been read, unless the contrary is distinctly proved, and in this case there is no positive evidence that it was not read.

Verdict—That Brydon was of a sound and

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v.
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disposing mind, and that it did not appear that the codicil was drawn out without instructions; and that it was not proven that it was not read over and explained to him.

Moncreiff and Jeffrey, for the Pursuer.

Cockburn and M'Neill, for the Defenders.

(Agents, *Gibson, Christie, & Wardlaw*, and *R. Rattray*, w. s.)

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PRESENT,

THE THREE LORDS COMMISSIONERS.

1822.
July 18.

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KERR v. DUKE OF ROXBURGH.

Damages for bribing the clerk of a law agent to disclose matter relative to the pursuer's title.

AN action of damages for having bribed a clerk formerly in the employment of the law agents of the pursuer, to disclose information acquired while in their employment.

DEFENCE.—The summons is irrelevant, and the statement grossly different from the truth.

ISSUE.

The issue was, Whether the defender or his agents, knowing that A. B. was the law clerk of the agents for the pursuer, and employed in his business, and intending to obtain from the