

No. 19. ing, is illegal, and cannot be sanctioned by any usage; and therefore prohibit and discharge the said Sir James Colquhoun from constructing, or continuing to use any such engine; and in so far decern and declare conform to the conclusions of the conjoined actions; and assoilzie the said first mentioned heritors from the conclusion of Sir James Colquhoun's action, and decern."

Lord Ordinary, *Craig*. Act. *H. Erskine, Robertson, Boyle*, Agent, *William Callender*.
 Alt. *Solicitor-General Blair, Jo. Clerk, Monyfeunny*. Agent, *Arch. Ferrier, W. S.* Clerk, *Ferrier*.
 F. *Fac. Coll. No. 172. p. 388.*

SECT. III.

Cruives.—Saturday's Slop.—Act 1581. Cap. 3.

1665. *January 26.*

No. 20. HERITORS of the FISHING of DON, *against* TOWN of ABERDEEN.

CRUIVES may be transplanted within the bounds of the heritor's possession, the former cruive dikes being demolished, so that the fishing above be in no worse situation than formerly.

Fol. Dic. v. 2. p. 360. Stair.

* * This case is No. 107. p. 10840. *voce* PRESCRIPTION.

☞ The sequel of this case is also reported by Stair:

1665. *July 29.*

THIS day report being made concerning the cruives of Don, The Lords found, that there was no necessity to keep always open a mid-stream, notwithstanding the several acts of Parliament made thereanent; which, upon inquiry through the kingdom, they found to be in desuetude, and especially in these cruives, to be made past memory, with Saturday's slop only, and ordained the distance of the hecks to be three inches Scots measure, whereof 27 make an ell.

Fol. Dic. v. 2. p. 360. Stair, v. 1. p. 305.

1684. *March 18.*

WILLIAM BARCLAY of Balmacleun, *against* SCOTT of Comiston.

No. 21.

THE Lords find the mid-stream acclaimed by the pursuer's declarator to be in desuetude, and therefore assoilzie Comiston from it: Find, he must observe the