

question and consequence was only of gear, and there are daily sundry weighty causes and actions intended before the Lords, whereof the consequence will be the tinsel of the party's hail gear, yea and perchance meikle of their heritage; and yet *juramentum calumniæ* is ay sought, when it is asked according to the order of process, et de jure in omnibus causis indistincte præstatur juramentum calumniæ Cod. ibid. L. 1. et 2. et in authent. ibid., et juxta, et in sexto ibid., et text. est expressus in L. 3. § 1. D. De jurejurando, &c. quod in quacunque actione etiam criminali juratur, et tenent theologi, præcipue sanctus Thomas, quod reus tenetur semper in foro conscientiæ veritatem dicere, et quamvis sit interposito juramento.—THE LORDS, after long reasoning among themselves, found, for the most part, that the said Master should not give his oath *de calumnia* in the said cause.

*Fol. Dic. v. 2. p. 12. Colvil, MS. p. 359.*

\* \* \* Spottiswood reports this case :

THE Master of Gray having pursued for the deforcing of an officer, the pursuer craved his oath *de calumnia* upon the summons. *Alleged*, He ought not to give it, because the action was criminal, although it was civilly pursued before the Lords, and would infer the loss of all his goods and gear; and by our practique *juramentum calumniæ* is not sought in criminal causes, *ne detur occasio perjurii*. *Replied*, There was no pursuit for life or limb, but only for gear, and there are daily sundry weighty actions and causes before the Lords, whereof the consequence will be the loss of the party's whole goods, and much of of their heritage, and yet *juramentum calumniæ* is always sought in them; *nam de jure in omnibus causis indistincte præstatur juramentum calumniæ*.—THE LORDS found, that the defender ought not to give his oath *de calumnia*.

*Spottiswood, (JURAMENTUM CALUMNIÆ.) p. 182.*

1610. June 19.

BULMER against WILLIAMSON.

No 37.

HE who has made litiscontestation in a spuilzie, and offering to prove his summons, if the defender urge him to give his oath upon the verity and quantity, it is sufficient to him to swear, that he is informed that the defenders spuilzied from him that quantity, and that he believes the information to be true.

*Fol. Dic. v. 2. p. 12. Haddington, MS. No 1899.*