

No 18. Parliament 1621. *2do*. The deeds were not found false on the direct manner of improbation, but only upon indirect articles conjoined accumulated together, which at best is but a presumptive and illative probation; it were very hard upon such presumptions to take away a man's life; and Durie 14th July 1638, Dunbar, *voce* JURISDICTION, tells, the Lords in such cases use to punish the falsaries, *pœna arbitraria*, by banishment, stigmatizing, setting them on the pillory, infamy, &c. without remitting them to the Justices. Yet I find Kennedy, in 1663, hanged for falsehood upon a decret of the Lords, upon a very weak and presumptive probation.

1683. *March 29.*—SIR ROBERT MURRAY, in the case mentioned 15th February 1683, gives in a bill to the Lords, craving, that in regard the Judges in Ireland did not respect decreets written on paper without seals; that they would allow his decret against Broughton to be drawn upon parchment, and the seal of the College of Justice appended thereto, and to be abbreviated, that one skin might hold it. THE LORDS refused to abridge it; but ordained it to be written on parchment by way of book, and their seal to be appended to it.

Fountainhall, v. 1. p. 11. 41. 85. 130. 218. and 230.

1673. *November 18.*

GORDON of Cardines *against* SIR ALEXANDER M'CULLOCH.

No 19.
Found that an action for scandal committed in Edinburgh, might be pursued before the Commissaries there, altho' the delinquent had his family in another commissariot, he himself having been in Edinburgh 40 days before citation.

IN an advocation raised at William Gordon of Cardines's instance against Sir Alexander M'Culloch, of a pursuit intended against him before the Commissaries of Edinburgh, for slanderous and opprobrious speeches uttered against him, in calling him a murderer, oppressor and warlock, before many famous witnesses here at Edinburgh, upon this reason, that the said William was not a residenter there, but had his domicil in the west country, and so was only liable to the jurisdiction of that commissariot where he lived; it was *answered*, That it was offered to be proven, that before the uttering of those scandalous speeches he had resided 40 days constantly at Edinburgh, and therefore the question being only as to a legal citation to answer before the Judge of that place where the scandal was committed, ought to be sustained and the cause remitted. THE LORDS having considered a former decision in the case of Panmuir, No 60. p. 4847, where upon that ground, that he had resided three months in Edinburgh, the Commissaries were not found to have the confirmation of his testament, but the Commissary of Brechin, under whose commissariot he had lived with his family before he came to Edinburgh, they did find, notwithstanding, in this case, that the cause ought to be remitted to the Commissaries of Edinburgh, as being the place where the scandal was committed and could only be proven, and that the question being only as to a legal citation, was different from that of the Earl of Panmoor's, which was as to the confirmation of his moveable estate.

Fol. Dic. v. 1. p. 327. Gasford, MS. No 633. p. 367.

* * * See No 13. p. 4793.