

beit the cause this half year was so concluded as it was lying ready to be advised, and the persons against whom she craved her diligence were examined already; for *nunquam concluditur in causa falsi*. Vide 14th July 1680, Robertson; and 21st July 1680, thir parties. *Vol. I. Page 102.*

1680. November 30.—In Arbuthnot of Knox his improbation and reduction against the Lady; the Lords, contrary to what they did formerly, (8th Jan. 1679,) now find her consent to the minute of his contract of marriage is a homologation of Arbuthnot's right from Colonel Hary Barclay, in so far as concerned the fee of the lands dispooned, but not *quoad* the liferent; as to which, they would not find she had prejudged herself.

The Lords declared this was not so much a decision *in jure*, as an advice and a trysting interlocutor; and they would appoint her liferent of the whole, in so far as exceeded her contract-matrimonial, should only commence at Whitsunday next; so that he should not be liable to her for bygones.

But neither being satisfied with this, see it fully decided at the 15th December. *Vol. I. Page 119.*

1680. December 15.—The improbation, Arbuthnot of Knox against the Lady, being finally advised this day, the Lords improved the bond *quoad omnes civiles effectus*, and ordained Mr Alexander Steven to be apprehended, (whom there is ground to suspect as the forger,) and other of his writs to be produced, that they may be compared with this bond.

The Lords went on the reasons of reduction, joined with the suspicions of falsehood; but, out of pity to the Lady, would not declare it false.

*Vol. I. Page 122.*

See partial reports of this case in Morison, p. 13,389, 13,390, 6,761, 6,527, and 16,681, by Fountainhall and Stair.

1680. December 16. BURNET of CRAIGMYLE *against* BURNET of CRAIGOUR.

In the action of maills and duties, Burnet of Craigmyle against Burnet of Craigour, an Act having been surreptitiously extracted without hearing all Craigour's defences; upon a bill given in by him craving the Act might be called back and cancelled, the Lords ordained Craigour to found what defences he had to propone farther than was already contained in the Act, that they might see if there was any just cause for rescinding the Act, and restoring against the same. *Vol. I. Page 122.*

1680. December 23. RENTON of LAMERTON *against* HOME of POLWART.

In Renton of Lamerton's case against Home of Polwart, a seasine being quarrelled as null, because, in the act of tradition, instead of saying, "by delivery of earth and stone," it says, "by delivery of the ground of the lands," which is earth, but not stone; and that this is *de forma specifica*, and essential:

The Lords found the seasine, being *in re antiqua*, viz. thirty years ago, valid; but, if the notary was alive, ordained him to be deprived for his informality.

An infestment of annualrent was quarrelled, because the seasine bore the delivery of a piece of silver money; whereas the symbol of it precisely is "a penny," *secundum veterum nostrorum prædecessorum paupertatem*. Yet I think the silver, as *majus, continebit sub se minus*.

The Lords, in January 1680, in the case of *Homer Maxwell of Kilbain against The E. of Nithsdale's Tenants*, sustained a seasine the attestation whereof was only the contracted subscription which a notary uses to put to any other inferior kind of instrument, such as the intimation of an assignation, or the like; *viz. ita esse attestor signo et subscriptione his meis manualibus*.

In another cause, they found a seasine valid, though it was registrate with the notary's name blank, *Et ego vero notarius publicus*; because the party condescended on him, and so filled it up *ex intervallo*, and abode at the truth of it. *Vol. I. Page 122.*

1680. *December 23.* THOMAS WILSON *against* WILLIAM BROWN.

IN Thomas Wilson's case with William Brown, (12th Nov. 1680, *supra*, p. 37,) the Lords declared they would not admit of qualified oaths when it was only an oath of calumny; because, there, other probation is admitted against it.

*Vol. I. Page 123.*

1680. *December 23.* HAMILTON of RAPLOCH, and JEAN LOCKHART his Spouse, *against* JOHN BONNAR.

IN James Bonnar's improbation against Hamilton of Raploch, and Jean Lockhart his Spouse, who was formerly wife to John Bonnar, the Lords found the bond produced by the said Jean, false, and improved it.

*Nota.*—Falsehood turning so bold and frequent, the Lady Knox's bond and this being two in one week, it should be more severely punished.

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1680. *December 23.* DAVID FERNE *against* WILSON of CROGLEN.

IN David Ferne's cause against Wilson of Croglen, the Lords found the father liable to pay the debt contained in his umquhile son's bond,—the creditor proving that the cause of the bond was for aliment, and that the son staid at his house; and again found it relevant to assoilyie the father, *secundum S. C. Macedonianum*, that he offered to prove that he gave his son at that time a competent allowance, upon which he might have lived, or paid for his own aliment. *Vide 24th November 1682, Alston.* *Vol. I. Page 123.*