

1672. *January.* KINGENNY *against* MARGARET SCRYMGEOUR.

THAT tutors nominated, and for a time not accepting, are only accountable from the time of their acceptance, for omissions and commissions, and not from the date of the nomination, and that the pursuing for exhibition of the minor's writs was an acceptation and behaviour as tutor. This was found betwixt Kingenny and Margaret Scrymgeour. *Vide* Balfour, *titulo* Of Reduction of Sentences.

*Advocates' MS. No. 307, § 3, folio 126.*

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1672. *January.* LADY MILNETONE *against* The LAIRD.

IN the Lady Milnetone's case with the Laird, the Lords found that bribing and corrupting of witnesses may be objected *in secunda instantia*, and that the same being proven, the sentence of divorce which proceeded upon the depositions of these witnesses would reduce. Then the great question was, how the bribing was probable; for it seemed dangerous to refer to the lady's oath that she had bribed them, the import of that being criminal: and to prove it by witnesses would prove an endless vexation; seeing a reprobator of their testimony might be raised, as if they had been bribed to depone that the former witnesses were bribed, which second bribery, if it were probable by witnesses, ye might so go on *in infinitum*. The Lords found the lady should give her oath on it. Who deponed *negative*; whereon she was assoilyied from the reprobator. Sir G. Mackenzie's pleading says, they found it probable *per testes omni exceptione majores*. *Vide supra*, thir same parties, *24th February 1668*, page 439.

*Advocates' MS. No. 307, § 4, folio 126.*

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IT came to be debated who was fiar in this conception. A sum is provided to a man and his wife and to the heirs of the marriage, which failyieing to the wife's heir. The termination on the wife's heir makes the doubt: yet the Lords found the man fiar, it being a donation flowing from him, and that he might have uplifted the sum in his lifetime and discharged it. *See* Hadinton, *10th November 1609*, *Bartill Tullo against Laird of Carberry*,

*Advocates' MS. No. 307, § 5, folio 126.*

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SIR JOHN KEITH *against* ———.

AN inhibition being sought to be reduced upon this single head, that though it bore the party inhibited to have been personally apprehended, yet it wanted