

1678. *December 19.* GRAY of SKIBO *against* COLIN ROBERTSON.

IN the action, Gray of Skibo against Colin Robertson, my Lord Newton would not permit Skibo to propone improbation, by way of exception, against his father's bond granted to John Robertson, because the bond was not produced, nor *in campo*, and there was nothing produced but a decret recovered upon the bond; and so, except the production were satisfied, they could not proceed to cognosce on the falsehood of the bond; and therefore he decerned, reserving their improbation, by way of action, as accords.

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1678. *December 19.* PATERSON *against* JOHN WILSON, Mason.

PATERSON against John Wilson, mason. Newton found competent and omitted, in inferior decreets, not receivable where the exception omitted consists *in jure*, because the party and his procurator might be ignorant thereof; but not where it consists *in facto*, *præcipue proprio vel recenti*, that the party cannot but know of.

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ANENT the PUNISHMENT of PERJURY.

The pains of perjury, by 19th Act 1551, *viz.* confiscation, infamy, and warding, seem too slender, and its punishments ought to be augmented to death. See M'Keinzie's *Criminals*.

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ANENT *DEBITA FUNDI*.

THE price of a minister's manse, nor the communion elements, are not real *contra fundum*, nor *onera realia quoad bygonos*, but only for the future. See the Act of Parl. 1649, making the stipends of ministers *debita fundi*; but it is rescinded. See a similar case, 19th *December 1679*.

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ANENT RESIGNATIONS.

It proves very oft prejudicial, that there are no diets of Exchequer more frequently kept in the vacance for receiving resignations; whereby the granter of the procuratory of resignation dying, the whole falls, and the infestment cannot be expedite upon that procuratory. The Act of Parl. 1600 empowers the Secret Council to accept resignations; but that Act is in desuetude.

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1678. *December 19.* SEATON of BLAIR'S HEIRS-PORCIONERS *against* LORD PITMEDDEN.

IN the pursuit, at the instance of the heirs-portioners of Seaton of Blair against Sir A. Seaton of Pitmedden, the Lords found, on the 22d December