

No 356. 1688. *July* —. URQUHART *against* NAIRN.

FOUND that as a husband could not be prejudged by his wife's oath, neither could he be prejudged by her being holden as confest.

Fol. Dic. v. 2. p. 240. Harcarse, (OATHS.) No 747. p. 211.

DIVISION III.

Public Instrument, how far Probative.

SECT. I.

Messengers Execution.

No 357. 1611. *July 9.* PHILORTH *against* PITSLIGO.

IN comprising, searching may be at one place, and thereafter denunciation, and thereafter searching at another place, and denunciation, so it is no cause of reduction, albeit some searchings be after some denunciations; neither will it be admitted to the debtor's probation, in his reduction, that there were moveables extant the time of the searching, worth the debts comprised for, in respect of the officer's execution bearing the contrary: A comprising will not be reduced, because the lands are much more worth than the sums comprised for.

Fol. Dic. v. 2. p. 241. Haddington, MS. No 2270.

No 358. 1626. *June 29.* HALYBURTON *against* PROVOST of JEDBURGH.

IN an action against a Magistrate for not taking a rebel, after he was charged for that effect, the LORDS found, that the summons, bearing the rebel to have been in the Magistrate's company the time of the charge, behoved to be other-