

DECISIONS

OF THE

LORDS OF COUNCIL AND SESSION,

REPORTED BY

SIR JOHN LAUDER OF FOUNTAINHALL.

1692. *November 9.* ROBERT DUNCAN *against* HELEN JOHNSTON.

ROBERT DUNCAN in Musselburgh, having given in a bill of suspension of a decret obtained against him by Helen Johnston, relict of Robert Scott, on this reason ; that it was truly in absence, and that he being convened amongst many debtors, Mr. Thomas Skeen was marked compearing for him, and he produced a declaration under his hand, disclaiming that he was employed, or took a day to produce him to depone : The Lords thought their decreets on circumduction the weakest of all those *in foro*, and most easily suspended, seeing it was only to re-pone them to their oath ; yet they ordained the process to be produced, to see if Mr. Thomas Skeen returned the process, or appeared for him. And on production, it was found he had returned it for this defender, and so his declaration was upon oblivion, and a mistake ; though even in such cases it may be dangerous to allow such disclamations, unless where there are a multitude of defenders, and so a confusion in marking the advocate's compearances, or that it holds them as confessed on points referred to their oaths.

Vol. I. page 516.

1692. *November 9.* The CREDITORS of SIR GODFRY MACULLOCH of Ardwal, Competing.

PHESDO reported, that in the roup of the lands of Sir Godfry Maculloch of Ardwal, it was objected that the pursuer of the roup being but a single creditor, he