

acted with this Northesk's father, and gave him back his bond, and got L.1000 Scots at sundry times, as appeared by receipts and letters betwixt the said Johnston and the Earl's chamberlain, who was the manager and carrier on of the fraud. Which condescence the Lords found relevant to elide the presumption of its being in the debtor's hand ; and if this was proven, then they would allow them to insist for exhibition of the bond, but not sooner. *Vol. I. page 559.*

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1693. *February 15.* JAMES PRINCE *against* HARY BLAIR, son to Hew Blair, vintner.

THE Lords thought the husband's creditors were not in strict law obliged to bury his relict, yet when it was shortly after the husband's death, and she had not again married, *ex humanitate*, they should bury her out of the husband's means, unless they could condescend on as much of her own as would bury her. But here the Lords repelled it, in regard it was already proponed and repelled in an extracted decret of suspension ; and so the Lords would not receive it now against a decret *in foro*. See the first decision in *President Newton's Observes*, 1681, [Heriot *against* Blyth and Muir, *Nov.* 1681.]

*Vol. I. page 560.*

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1693. *February 15.* SIR ROBERT MURRAY of Abercairny *against* MR. DAVID GRAHME, tutor of Gorthy.

THE Lords reponed Mr. David against a decret *in foro*, in regard they had precipitantly taken out it for the charge in the count and reckoning, which was constituted by the factor's oath, without receiving in, and considering the discharge and defalcations which the factor had to give in ; so it was only the half of the counts.

*Vol. I. page 560.*

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1693. *February 15.* MR. ARCHIBALD NISBET of Carfin *against* COMMISSARY DALRYMPLE and GRANGE DICK.

THE Lords found there could not be a partial transference of some points and interlocutors, but that it behoved to be of the whole. But would not cast the process, but allowed them *instantanter* to add these omitted signatures of process.

*Vol. I. page 560.*