

No. 4. 1742, June 25. *WRIGHT against ENSIGN LUMSDEAN.*

ENSIGN LUMSDEAN having enlisted one Wright to be a soldier, who was bound apprentice to a dresser of flax, he and the master applied to some Justices of Peace, who found he could not be enlisted contrary to the indentures, and set him at liberty; which being brought before us by suspension, the question turned some time on the common law, whether the Crown could take an apprentice without his master's consent? and I inclined to think not, and so did all of us who spoke, except the President. But my difficulty was on the clause in the mutiny acts against arrests; and after reading the clause, we delayed till Tuesday the 29th, when, upon the question, it was given in favours of master and apprentice, and the bill of suspension for the Officer refused. *Pro*, were Royston, Drummore, Justice-Clerk, Strichen, Kilkerran, Balmerino, and Dun the Ordinary. *Con.*, were President, Minto, Munzie, Leven, *et Ego*.

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ARBITRATION.

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No. 1. 1735, Feb. 12. *SKENES against CREDITORS of THOIRS.*

THE Lords found John and Elizabeth Skene not bound by the decret-arbitral, not having signed the submission, though their interests were produced before the arbiter.

No. 2. 1736, Dec. 10. *SIMPSON against STRACHAN.*

THE Lords unanimously adhered, and found the arbiter could not destroy the decret-arbitral.

No. 3. 1738, Jan. 17. *BLAIR against GIBB.*

It appeared, that during the currency of a prorogation, the decret-arbitral being written out and signed, the arbiters would not publish or deliver it up till they were paid for their labour; that they had a treaty with both parties; that one of them, Blair, who knew nothing of the contents of the decreets-arbitral, was willing to join with Gibb the other in paying them a sum, but would not agree to their demand, but that Gibb by himself paid them, and that thereupon the arbiters gave the decret to be registrate. This the Lords found relevant and proved to reduce the decret-arbitral, that the same had been obtained by corruption, and ordained the money paid to the arbiters to be put into the Clerk's hands, to be applied to pious uses as they should direct. They would not order it to be paid to Gibb because he was *particeps*. They would have inflicted a higher censure on the arbiters, but that by the circumstances and their ingenuity, it appeared that they thought they were doing a lawful thing. The Lords adhered 17th January, and refused the arbiters' bill without answers.