

Another point in this cause was, Whether a contract of marriage, written upon several sheets of stamped paper, without mentioning the number of pages in the testing clause, as required by the Act of Parliament allowing securities to be written bookways, was not null and void?

It was ALLEGED,—That the attestation of the notary, in sasines written bookways, required by Act of Parliament 1686, had only been dispensed with on account of the contrary practice long prevailing, which could not be said here; as the common, and almost universal practice, was to mention the number of pages in the last page. Nevertheless the Lords unanimously sustained the deed,—*first*, because it was a marriage-contract, and therefore more favourable than another deed; *secondly*, because the pages were numbered; and, *lastly*, there was a catch-word at the bottom of each page, so that it was impossible any thing could be foisted in. See *infra*, February 9.

1757. February 8.

CREDITORS OF EYMOUTH.

LORD HOME, as Lord of Erection, had right to sundry feu-duties, payable out of these lands of Eymouth, of which the crown, by the Act of Parliament 1683, was superior. The proprietors of these lands had sold parts of them, and the purchasers had taken charters from the crown for payment of a proportionable part of the feu-duty payable out of the whole, but without defining what that part was, by which means my Lord Home had a feu-duty that was formerly paid by one to seek from perhaps twenty, and without knowing what part to demand from each: the question was, Whether he could not point any part of the ground for the whole feu-duty?—And the Lords unanimously found that he could, but that he could have no personal action against the several heritors who had been thus multiplied, except in proportion to the parts of the feu which they held, and with the rents of which they intromitted.

Lord Kaimes was of opinion, upon the general point, that if a feu was in this manner divided without the voluntary act of the superior, he would have a pointing of the ground for payment of the whole feu-duty out of any part of the divided feu; and he put the case of the superior being obliged to enter several heirs-portioners, or to enter several adjudgers of the feu; and he thought, in this case, that Lord Home, being superior so far as uplifting the feu-duties went, and the feu being divided without any act of his, he could have pointed any part of the ground for the feu-duty of the whole, even supposing the particular feu-duty payable by each of the purchasers had been mentioned in his charter; but in this the President differed from him, and put his opinion wholly upon the purchasers' neglecting to get the feu-duties specified in their charters.