1757. *February* 9. PORTEUS *against* BELL.

THIS cause, which was called before, February 4th, was called again this day, and some other points in it decided. It was objected to an adjudication upon a trust bond, by which an heir had made up his title to the estate, that the adjudication proceeded upon a special charge, wherein the lands were blank. This objection was made by the creditors of the next apparent heir, who was in the right of the succession upon the death of the first apparent heir. The answer was,—That the adjudication was near forty years old before the objection was made: that after twenty years, it was established by the decisions of the Court, upon the analogy betwixt special charges and special services, which cannot be reduced after twenty years, that it was not necessary to produce the warrant of the adjudication, or the special charge, after the lapse of twenty years; and, in general, it is now established in practice that no warrants are necessary to be produced after twenty years; that therefore the adjudger, in this case, could not have been obliged to produce the special charge; neither could the objector have got a diligence for recovering it, no more than a man who objects to a charter and sasine forty years old would be entitled to have a diligence for recovering the procuratories or precepts in order to show that there was some nullity in them; because, after so long a time, there is a presumption, *juris et de jure*, that every thing was *solenniter actum*; and, therefore, though in this case the special charge was produced and found to be defective, yet that defect could not be now pleaded. But the Lords, notwithstanding, sustained the objection; *dissent.* Preside *et* Prestongrange.

Another question occurred in this case, Whether a man who had bound himself to infeft a woman in a yearly annuity was personally bound for the payment of that annuity?—And the Lords all agreed that he was not. *Dissent. tantum* Kilkerran.

1757. *February* 9. LORD NAPIER *against* ———.

[*Fac. Col.* II, No. 23.]

IN this case the Lords found that a general service was a sufficient title to carry on an improbation and reduction of rights to lands, so far at least as to force a production.

The PRESIDENT said, that this was determined several years ago, in a case where he had been counsel, and had pleaded that such a service was not a good title, because the heir so served, if he should die, the next heir might make up his title by a special service, and so all the litigation with the former heir would be void and null: nevertheless, the Lords sustained the title, to the effect of forcing a production; but Kilkerran thought it could go no farther,