

No 28. liberty to re-examine such of the witnesses contained in the foresaid proofs as were yet living.

Reporter, *Elchies.* Act. *R. Craigie.* Alt. *H. Home.* Clerk, *Kirkpatrick.*
D. Falconer, v. 2. No 2. p. 2.

1767. February 24. M'HARGS against CAMPBELL.

No 29.

THE sentence of a court-martial, finding a man guilty of murder, found a sufficient ground for an action of assythment in the Court of Session.

Fol. Dic. v. 4. p. 235. Fac. Col.

* * This case is No 429. p. 12541. *voce* PROOF.

SECT. II.

Res Judicata.

1543. March 20. CAMPBELL against LAIRD of GRANGE.

No 30.

A forfeiture being reduced *per modum justitiæ*, all dispositions granted by the donatar, of parts of the land, were found to fall in consequence.

SIR JOHN CAMPBELL of Lundie asked the Laird of Grange's infestment of certain lands holden by him of my Lord Glamis, and become in the King's hands by reason of my Lord Glamis's forfeiture, and therefore given by the King to the said Grange, to be reduced, because the said forfeiture was reduced by Parliament, holden by my Lord Governor, after the King's decease, wherefore all the said Lord Glamis's free tenants ought to be put in the same place they were in before the said forfeiture. The Laird of Grange *replied*, That his infestment should not be reduced for the cause foresaid, because both before and after the reduction of the said forfeiture, and in the time thereof, in judgment, the said Lord Glamis consented that that infestment should not be reduced, but should stand and be of effect, sicklike as if the forfeiture were not reduced, and that the reduction thereof should not be prejudicial to the said infestment. The said Sir John *duplied*, That since the said forfeiture was reduced and decerned to be null, from the beginning, and in all time coming, with all that followed thereupon; and that the said Sir John's right, as free tenant to the said Lord Glamis, was tint by the forfeiture; and that the said Lord might not have taken from the said Sir John his land without his consent; and that so he might not consent that the forfeiture, being reduced and declared null from the beginning, that it should be of no avail anent the escheat of the said Sir John Camp-