

§ E C T. III.

Administrator's Oath, if relevant against his Constituent?

1611. *March 6.* ARNOT *against* COUNTESS of ORKNEY.

No 322.

COMPT of L. 900 furnished by Sir John Arnot to my Lady Orkney, subscribed by her without witness, and without my Lord her husband's consent, sustained against them both. See No 333. p. 12481.

Fol. Dic. v. 2. p. 239. Haddington, MS. No 2180.

1619. *November 23.* BELL *against* GIB.

No 323.

ALEXANDER GIB suspends a decreet gotten by Andrew Bell, executor to umquhile Henry Bryson, and calls his relict to the suspension, *ratio*, the sum was paid to the said relict in her umquhile spouse the defunct's presence, and of his servant, quhilk is referred to her and the executors' oaths of knowledge conjunctly. Finds the reason relevant to be proved by their oaths, and declares that their oaths shall not prejudice the bairns and creditors of the defunct.

Clerk, *Durie.*

Fol. Dic. v. 2. p. 238. Nicolson, MS. No 169. p. 121.

1624. *June 19.* ALEX. MONTEITH *against* CATHARINE SMITH.

No 324.

AN executor being summoned to make arrested goods forthcoming, the pursuer must prove his summons otherwise than by the executor's oath, because he will get no exoneration as executor of any debt confessed owing by his own oath.

Fol. Dic. v. 2. p. 238. Spotiswood, (EXECUTORS.) p. 113.

1627. *March 6.* SCOT *against* COCKBURN.

No 325.
Found in conformity to Monteith *against* Smith, *supra.*

IN an action betwixt Scot and Cockburn, for payment of a bairn's part of gear falling to the pursuer, and which was pursued against the executor of the defunct, the LORDS found an exception of exoneration noways relevantly qualified nor instructed, which was found upon decreets recovered by the creditors of the defunct against the said executor, where the debts contained in the