

to have been, that Alexander having got a right to the subject from his father in exclusion of David Durie the eldest son, John Durie interposed for David to get justice done him; and at last an agreement was entered into and articles signed, whereby David and John were to pay Alexander a sum of money, and relieve him of the father's debts, and he was to renounce and make over in their favour all the rights made to him by his father, both the heritage and executry (with some exceptions) to the end they might make up their titles thereto; and in implement this disposition by Alexander to John was drawn, and another by David also to John, who gave David a back-bond in the form of a missive letter to denude if required on being relieved of his engagements; and as the other writs were to be signed by different parties, they were signed at different times, and on signing the articles were cancelled. And the disposition quarrelled being signed by Alexander before filling up the witnesses, he had signed too close to their writing, so that the filling up of them was in a much smaller character and the writing crowded, and some of the lines were short lines to the left of and equal with Alexander's subscription, but above the witnesses subscription. But as the act does not require the filling up of the witnesses names and designations before subscribing, and the contrary practice is and always has been very general, and no doubt remained that the deed was truly signed before the witnesses; the Court thought it no nullity that either the writing was crowded, or that some of the lines were lower in the paper than the top of the party's subscription, and on the left hand of it. And although it was said that one or two words of the deed, (which could be no other than the words of stile) had been erased to make the more room for filling up the witnesses in a smaller character, neither was that though material; and the objection was repelled, and the deed sustained, first on Kilkerran's report for advice, next on a reclaiming bill against his interlocutor, 3d January 1753; and last of all we adhered, 9th March 1753. *Sed renit.* at this last time, Drummore, Strichen, Kilkerran, Kames.

No. 28. 1753, July 27. URQUHART *against* THE OFFICERS OF STATE.

See Note of No 7, *voce* PATRONAGE.

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### WRONGOUS IMPRISONMENT.

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No. 1. 1736, Nov. 26. CAMPBELL *against* RAMSAY.

THE Lords found the imprisonment illegal and unwarrantable, and remitted to the Ordinary to proceed accordingly, 21st July. 10th November, The Lords adhered. 26th November, The Lords found, that though the imprisonment was illegal and oppressive, yet the defender was not liable in the pains of wrongous imprisonment contained in the act 1701.