1786. *June* 30. JAMES SWAN in Lochlyoch *against* JAMES SWAN in Boghead and OTHERS.

BILL OF EXCHANGE—OATH OF PARTY.

Oath of Party, respecting the onerosity of a Bill, must be special.

[*Faculty Collection, IX.* 441; *Dictionary*, 9418.]

ESKGROVE. Samuel Swan ought to have explained what value he gave: his refusal was highly improper.

MONBODDO. His refusal affords suspicion that he could not prove value given.

PRESIDENT. It is strange law, that a person is not bound to swear what the value was, and that he may screen himself under a general answer.

JUSTICE-CLERK. The party, by advice of his procurator in the country, refused to answer. But then, when he came to town, he ought to have offered to answer all questions: had he made such an offer, and then died in the interval before swearing, I should have presumed that value had been given; but I cannot presume so in this case, for Samuel Swan, even when in this Court, still refused to swear as to particulars.

On the 30th June 1786, "In respect that Samuel Swan refused to answer the interrogatories put to him by the Commissioner, and persisted in that refusal before the Ordinary, the Lords found that the onerosity of the indorsation to the bill in question, in favour of Samuel Swan, is not sufficiently instructed:" and, on the 18th July 1786, "adhered;" altering the interlocutor of Lord Stonefield.

Act. W. Honeyman. *Alt.* H. Erskine.

1786. *July* 20. CHRISTIAN JEAN SUTHERLAND *against* JEAN SUTHERLAND.

HEIR APPARENT.

Inhibition used against an intermediate Apparent Heir, of no effect after the succession is taken up by a subsequent heir serving to the predecessor last infeft.

[*Fac. Coll. IX.* 449; *Dict.* 5294.]

BRAXFIELD. Andrew Sutherland, being never more than an apparent heir, was never possessed of a subject capable of being affected by inhibition. The one arrestment could not affect a subject which did not belong to Andrew Sutherland: the other arrestment in the hands of the consignee is good.