

Beatsons of Kilrie and Southglassmonth, the Lords assoilyied them from the qualifications enforced by the pursuer against them, to make them liable and accountable to him for omissions, as they who had acted as protutors, *viz.* that Kilrie had meddled with the charter-chest, and taken out papers, &c. : which the Lords did not find sufficient to make him protutor ; for they remembered, in Scrinzier and Wedderburn of Kingennie's case, they had found a greater meddling than that no acting as tutor. See, anent deeds importing protutory, the case between Ellies of Southside and Charles Carse, decided on the 18th November 1671. *Vol. I. Page 10.*

1679. *January 23.*—At Session, a bill was given in by Mr John Ellies, advocate, and Beatson of Kilrie, against Beatson of Polguild, who had threatened Kilrie in the Session-house, that he would kill him ; and said, that Mr John Ellies had betrayed General Dalziel in his causes. Though threatening does not infer tinsel of the plea by the Act of Parliament, which speaks only of beating and wounding ; yet it is *crimen in suo genere*, especially in the Session-house. And therefore the Lords recommended to Newton, in order to the punishing of the parties, that he should examine both parties, and witnesses, upon the whole circumstances of the bill. See the process depending betwixt thir parties, July 19, 1678. *Vol. I. Page 36.*

1680. *December 2.*—Beatson of Polguild against Beatson of Kilrey, (as to their qualifications of tutory,) was this day decided ; and the Lords modified the value of the coal intromitted with, to 1200 merks yearly. *Vol. I. Page 120.*

1680. *December 3.* **GOLDIE against The TOWN of DUMFRIES.**

The Lords having advised this case, they found it sufficiently proven that the citizens contained in the Act of Exchequer had given bond for the taxation 1633, and had paid it ; and so it was not discharged by the Act of Grace in March 1674, but that it fell within the exception of that Act. And the Town urging presumptions that it was paid, the engagers being magistrates, who would not fail to obtain payment, and being in an Act before answer, the Lords allowed the Town to adduce what documents they could, to astruct the same was paid, being *in re tam antiqua*, and so presumed to be paid. And, as to the interruptions of the forty years' prescription, they found a caption without an execution was not a sufficient interruption, unless the letters of horning and execution and denunciation whereupon the caption proceeded were also produced, or extracted from the register of hornings ; though a caption presupposes a charge of horning to have preceded.

Then ALLEGED,—the summons being in 1675, the term's taxation in 1636 was within the forty years. Then minority of some was offered to be proven ; but it must be the minority of the executors, to whom this sum would have fallen, and not of the heir, to whom it did not belong. That the king's taxation falls not under prescription, or that the years of the surcease of justice in 1659, &c. should be deduced, I think would be repelled. *Vol. I. Page 120.*