

him excluded from all but only errors *in calculo*; seeing old Sir Walter, who was a judicious man, did not quarrel, nor discover them in fourteen years time, but during all that space homologated them.

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1692. *December 9.* HELEN MIRK *against* BRUCE of Kinnaird.

HELEN MIRK *against* Bruce of Kinnaird. He having extracted a decret as-
soilyeing him, on his consigning the principal sum, and 200 merks of expenses;
and she having raised a reduction of it, and calling for the grounds and warrants
of the decret; and some of the interlocutors being amissing, she urged for get-
ting the extract of her certification.

Kinnaird ANSWERED, That his decret *in foro* could not be taken away for
want of the warrants, which might fall by through the clerk's servant's negligence,
or be abstracted by their fraud. The President thought, where decreets were
impugned *ex intervallo*, they should not be declared null for want of the grounds;
but if it was questioned *de recenti*, they were bound to produce them, but the
point being of general concern to the whole lieges, they resolved to hear it in
their own presence, and, in regard the woman was poor, and not able to employ
the best advocates to plead it, the Lords would nominate some of the most emi-
nent for that purpose; for they considered, if the abstracting the minutes and in-
terlocutor would annul decreets, the lieges who had recovered sentences *in foro*
after great expense and trouble, had no security at all.

In this case, Kinnaird offered to prove the existence of these interlocutors, free-
ing him from the annual-rents, on his consignment, by the oath of my Lord Pit-
medden, the reporter, and of the extractor, and others; but the Lords, as for-
merly, in Heugh Wallace's case *against* my Lord Forrester, thought it a danger-
ous preparative, to make up the tenor of interlocutors by any witnesses what-
soever.

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1692. *Nov. 3,* and 15. *Dec. 10.* JOHN HAMILTON and KEITH'S Relict,
against BEATON of Balfour.

Nov. 3.—JOHN HAMILTON, Brewer in Edinburgh, and the relict of Mr. George
Keith, *against* Beaton of Balfour. The Lords repelled the compensation pro-
poned on Keith's debt, because the 2000 merks bond was conceived to him and
his wife in liferent, and so his debts could not prejudice her liferent, constituted
by her contract of marriage. But she being provided by her contract to 1200
merks yearly, the question occurred, whether she might affect the 2000 merks for
her jointure, so as to make the stock liable as long as it lasted; or if she could
only reach the yearly annualrent of the 2000 merks. And the Lords inclined to
the first.

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