

S E C T. II.

Perjury.

1695. November 12.

THOMAS YEAMAN in Leith *against* JOHN ROGER Writer.

THE LORDS advised the concluded cause, Thomas Yeaman in Leith against John Roger writer, who being charged on a ticket of L. 20 Sterling, suspended, on this reason, that he offered to prove, by Yeaman the charger's oath, he was paid of L. 15 Sterling of it. And he having deponed *negative*, except as to L. 54 Scots, Roger afterwards, on a bill, gets a diligence to produce a bond of corroboration he had given him only for L. 5 Sterling, as resting of a greater sum: And it being produced, at the advising, he made use of it to controul and redargue his oath, together with a bond of presentation, &c.—THE LORDS found the charger's oath was the only rule by which they behoved to judge; and found it did not prove the reason of suspension; and therefore decerned, except *quoad* the sum acknowledged; seeing the exception of perjury does not elide the debt, but only founds a criminal pursuit; and for expiscating where the knavery and unfair dealing lay, recommended to my Lord Rankielor, who had formerly heard the cause, to try the same, and report.

No 2.
The exception of perjury does not elide the debt, but only founds a criminal pursuit.

Fol. Dic. v. I. p. 232. Fountainball, v. I. p. 677.

S E C T. III.

In what cases a Procurator Fiscal may Prosecute without Concourse of the Private Party.

1738. July 25. GILMOUR *against* The PROCURATOR-FISCAL of Linlithgow.

FOUND, That a procurator-fiscal could not pursue *ad vindictam publicam*, notwithstanding the *dissimulatio* of the private party, the crime not having been of a public nature, and which required punishment *ad vindictam publicam*.

Fol. Dic. v. I. p. 232. Kilkerran, (DELINQUENCY) No 2. p. 156.

No 3.