

## S E C T. IV.

## Decrees, Acts of Court, &amp;c.

1618. *January 10.*MUIRHEAD *against* CLELAND.

No 404.

IN an action of wrongous intromission, pursued by Muirhead of Lochope against Alexander Cleland, for a brown horse, the LORDS found an exception relevant upon a decret absolutor pronounced by the Commissary of Glasgow, where the defender was pursued for the horse as lent, and the matter referred to his oath, which the LORDS found relevant to elide this new action and probation thereof by witnesses, except he would also refer this new libel to his oath.

*Kerse, MS. fol. 256.*

1622. *February 13.*ORR *against* WADDELL.

No 405.

THE LORDS found, that a decret given by the D an of Guild of Edinburgh, decerning Gilbert Waddell to deliver 17 pocks of — to John Orr upon his own confession, was null, unless the debt were otherwise verified nor by the confession contained in the decret, because it was not subscribed by the party, who could write.

*Fol. Dic. v. 2. p. 247. Haddington, MS. No 2597.*

1626. *December 23.*PEEBLES' RELICT *against* TOWN of PERTH.

No 406.

IN an action pursued at the instance of the Relict of umquhile Mr Alexander Peebles, as executor to him, against the Provost, Bailies, and Council of Perth, for payment of a sum of money addebted by him to the said Mr Alexander, conform to an act subscribed by the Town Clerk, bearing them to be resting owing the said sum, as borrowed from the said Mr Alexander, and which they obliged them to pay to the said Mr Alexander at the term therein contained; this act being quarrelled, because it was not subscribed by the Provost and Bailies and Council, but only by the Town clerk, which ought to work no further than if it had been subscribed by a Notary, and so was not sufficient to produce action against them for payment of the sum of L. 400 libelled; likeas, the party *alleged*, That the Lords had found, that the like acts made by the Clerks, subscribed by them, whereby other persons were acted to pay sums to their credi-

An act of council, in which the magistrates owned themselves debtors, not subscribed by them but by the clerk, found obligatory.