

prisonment, but by the jailer's books it appearing to have proceeded for the whole, the Lords ordained him to be set at liberty. *Vol. I. Page 147.*

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1679 and 1681. MARION COMBLIN *against* WILLIAM CORBY.

1679. *December 24.*—IN Marion Comblin's improbation against William Corby, the execution of an apprising being offered to be improven by Comblin as false, Corby the appriser comes to abide by the verity of it, and offers to abide at it as truly so delivered to him by the messenger. And the late interlocutor in Colin Robertson of Kindies and Skibo's case, (19th Nov. 1679,) being objected, the Lords not only ordained him to abide at it as truly delivered, but also as truly subscribed by the messenger. And allowed him, if he pleased, to adduce the messenger or other adminicles to fortify the execution; but would not bind him to stand to it as actually and really so executed.

The instrument of requisition whereupon the said apprising proceeded being likewise offered to be improven, it was craved he should simply abide at the truth of that instrument, because not only the notary is his own brother, but also he is the person in the instrument mentioned as personally compearing and requiring the money; which is a great specialty. *Vide 15th July 1681.*

*Vol. I. Page 72.*

1681. *July 15.*—IN the reduction, Comblin against William Corby, (24th Dec. 1679,) of his comprising, though the witnesses in the executions of the special and general charges to enter heir, and of the comprising, deponed that they did not think they were ever adhibited as witnesses to these acts, (which might be sufficient to annul and reduce the comprising, though not to improve them;) yet the Lords being unwilling, on such a *non memini*, to take away men's rights, they farther ordained the messenger to be summoned to depone. But, if the executions be false, he for his own preservation will be loath to confess; besides, he is the appriser's own brother. *Vol. I. Page 147.*

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1681. *July 19.* OGIIVIE of MILTON *against* ———.

THE Lords assoilyied from a spuilie, though it was proven that the messenger poinder was not a messenger for several months after the pointing, as appeared by his act of admission long posterior; and this only because it was alleged he was *habitus et reputatus* a messenger, and so they restricted it to simple restitution. Which some judged very strange. *Vol. I. Page 148.*

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1681. *July 21.* THE ROYAL BURGHS *against* THE BURGH of SELKIRK.

THE Royal Burrows, and their agent, against the Burgh of Selkirk; for choos-