

*alleged*, This was the peculiar form of examination in that Commissariat, and that the Lords had formerly sustained their depositions, they forbore till that interlocutor should be sought out.—It may be very unfit to allow various forms in adhibiting oaths, and that is what the Quakers plead for, that their declaration, ‘as in the presence of God,’ may be accepted in place of the oath, and which the English Parliament has allowed lately. (*See solidum et pro rata.*)

*Fol. Dic. v. 1. p. 50. Fount. v. 1. p. 733.*

No 47.

1699. January 4. EARL OF CRAWFORD against ALEXANDER BRUCE.

ARRBRUCHALL reported the Earl of Crawford and Alexander Bruce, son to Broomhall. It was a reduction of a decreet-arbitral as subscribed of a false date, in so far as it was not signed till after the day to which the submission was confined was elapsed, yet it is made of an ante-date.—*Answered, Esto*, That were true, yet *primordium habet veritatis*; for the minute, which is the warrant, was truly subscribed by the arbitrators within the time prefixed.—THE LORDS found the minute being subscribed within the time, was sufficient, though extended thereafter, providing there was no more in the extension than in the minute, and the date at the head of the minute must be presumed to be the date of the subscription, unless it were redargued; for *omnia presumuntur solemniter acta, et interpretatio sumenda ut actus valeat*. See 27th March 163: Forrester *contra* Gourlay, No. 42. p. 645. It was here also debated, but not determined, whether a decreet-arbitral opened upon a nullity, falls *in toto*, or be like an *articulatus libellus* only *quoad* that article, as is provided for securities of decreets *in foro* by the late regulations in 1695; and though decreets-arbitral are there exempted from being reduced upon iniquity, but only upon corruption and falsehood, yet if that will exclude nullities.

*Fol. Dic. v. 1. p. 51. Fount. v. 2. p. 31.*

No 48.

Found in conformity with No 42. p. 645.

1714. July 30. COLONEL ERSKINE against LADY MARY COCHRANE.

THE Lord President of the Session and Lord Dun having pronounced a decreet-arbitral, upon a submission made to them by Colonel Erskine and Lady Mary Cochrane and her Husband, concerning their differences, and several claims to and upon the estate of Kincardine: The Colonel raised a suspension and reduction of the said decreet, upon this ground, that the same is entirely *ultra vires compromissi*.—*1mo*, As to the subject matter of it, in so far as the arbiters have determined things not submitted to their judgment. For, *1mo*, By the submission nothing is referred to them but the parties differences concerning the estate of Kincardine; and yet they are decerned to grant general discharges of all actions or claims competent to each other. *2do*, The parties are decerned to ratify others

No 49.

Arbiters may ordain all writs in implement, and prosecution of their decreet, to be extended at their sight, after expiring of the submission.