

former manner of the entries, the places of the books where they are entered, any alleged razures in the entries, or other circumstances whatever, which may appear to them material to the issue. The whole to be reported to the Court on the 12th day of November next."

See the rest of this case below.

1774.

BUCHANAN *against* PAXTON.

IN processes of divorce, on the head of adultery,—it is competent for either party to examine the third party, with whom the adultery is alleged to have been committed. This was allowed on the part of the pursuer in the case of Mrs Nicolson; in the case of Buchanan *against* Paxton, Summer 1774, and others.

1775. *August* . FIFE *against* CHRISTIAN WILSON.

FIFE, a chairmaster, brought a process of divorce, on the head of adultery, against his wife, Christian Wilson, for alleged adultery with Paton. The Commissaries assolied, and found the libel not proven. Fife complained by way of advocacy, and insisted that the proof was sufficient. The Lords found so, and remitted the cause to the Commissaries, with an instruction to find so.

In arguing this case, the Judges were unanimous, that it was competent to Fife to examine Paton, if he thought proper; but his counsel, thinking the proof already adduced, sufficient, declined it. If it was competent to Fife to do so, it was certainly equally competent for the defender to have done it; but her counsel, though they acquiesced in Paton's examination should Fife demand it, yet, on their part, they did not insist for it.

1776. *November 19.* WILSON *against* M'LEAN.

IN the process, Wilson *against* M'Lean, formerly mentioned, the Lords, 14th November 1776, proceeded to the examination of evidence. The first step taken was, to order parties to give in a condescence of the names of such witnesses who they desired to be examined in presence. The pursuer did so. The Lords ordered accordingly, and remitted the examination of the rest to the Sheriff of Edinburgh. It turned out, that all those to be examined in presence, on the part of the pursuer, were to be reëxamined; and that some of them could not be examined in English, but behoved to be examined in the Gaelic or Earse language: for this purpose, an interpreter was necessary; this form was observed:—"Before further procedure, it was represented to the

Court, that it will be necessary to examine some of the witnesses, proposed to be examined in presence, in the Gaelic or Earse language; the Lords therefore nominate and appoint Archibald Fletcher, writer in Edinburgh, to be interpreter in these depositions; and Mr Fletcher, being called, accepted of the office, but moved that the Reverend Mr Joseph Robertson should be allowed to sit at his hand, to assist him in case of difficulty; which the Lords allowed: and both of these gentlemen were sworn *de fidei*."

The witness, being sworn in English, which he so far understood, was examined upon interrogatories. The interrogatories were put by Lord President to the interpreter, who explained them to the witness, and interpreted his answer to the Lord President. His answer was taken down in English, referring to the interrogatories: after the whole was completed, the deposition was read over in English, for the information of the parties; then it was explained in Earse by the interpreter to the witness, to the end he might correct it, if erroneous; and then both interrogatories and deposition were signed by witness, interpreter, and Lord President.

As this witness had been formerly examined,—*ante omnia* his deposition formerly taken, turned into Earse by the interpreter, was read over to him, to see if he adhered to it: which he did.

In the process,

CUTHBERT *against* M'NEILL of CARRISKY,

It having been represented, that some of the persons, cited by the pursuer in this cause as witnesses, could not speak the English language, the Commissioner desired the aid of _____ as an interpreter; who accordingly complied with his request, and made oath, that he would put the interrogatories to such of the witnesses who cannot speak the English language, and interpret the answers that shall be made by them fairly.

PROCESS Form of,—see FORM of PROCESS, and DECREETS.
