him and also of perjury. Which perjury seems to Defend the Moro to be punished, that the Criminal was Under no necessity to swear, nor in any hazard by not swearing; and it is an Aggravation of a Crime, that it was Committed without Temptation. Nor is it Lawfull for a Criminal to save his life by Unlawfull Means. Quantum if one by whose Judicial oath his being guilty of Usury is offered to be proved, shall swear Falsely, may he be Challenged for perjury because law obliges him to give his oath Act 247 Parl. 15 Act 7 Parl. 16. J. 6.

7/ Albeit it is not presumable, that a Man of any Integrity or honour wonld for swear himself for a Matter of Very Small Consequence, yet perjury in a Small Matter if Clearly proved, ought to be put to the Knowledge of an Assize Mackenzie Crim. part 1 pt. 29 §1.

8/ One having by a Declaration Under his hand given up himself as not worth five hundred Merks in order to be free from the poll money in the Year 1699, when a false Declaration subjected the Declarant to pay the quadruple of what could have been Claimed for his Stock, and some Years after in a process of Spulzie at his Instance given his oath wilfully that bonds to the Value of three thousand Merks were to him before Imposition of the poll tax had been taken away from him: he was thereupon Guilty of perjury. It was Alledged for the pannal, 1/ the Value of his Stock not being given up upon Oath, and the penalty of a false Declaration in that Matter being only a pecuniary Mulct, Viz. the quadruple, there could be no perjury by its Clashing with the oath in Litome. Nor is that oath produced, but only an Extract thereof under a Clerks hand. 2/ The Oath in Litome of the Declaration of his Stock when the poll was taken are not Inconsistant. For he might have three thousand Merks in bonds, and not be worth so Much in free gear: and he might have had debts at the time of giving up his Stock, and yet might have had the Value of the Bonds Given at his oath in Litome unless it were proved, that during the Interval he had

had not Augmented his fortune. It was Insisted for the pursuer, that Declarations solemly given before Magistrates and on a publick account, do Imply an oath. And a Witness, tho not sworn, may be a false Witness. A Bonny in the pursuer's power to pass from the oath Applyed for the Pannal, 1/ whatever might be said as to other Declarations being Equivalent to an oath that takes no place here where the law makes a false grounds use of Stock to Infer only Action against the Declarant for the quadruple. 2/ The Witness not sworn might be Called a false witness for telling a lie, but could not be a perjured Witness, being he did not Invoke God as a Witness to his Intentt. The Lords found the Indictment and Libelled upon the Instructions produced not Relevant, and therefore Desired the Dict simpliciter against the pannal 13 Feb. 1710 Lockhart contra James Robertson.

9/ A Girle of 19 Years of Age who had been Cited before and examined by the privy council Concerning the burning of the Gowder of Kindrancht and the Witness therein was pronounced as a false witness at the Kings Advocates instance for perjury in Making Diverse false and Contrary Declarations in her said Examination. Alledged for the Pannal, 1/ She cannot be accused as a false Witness because she was not produced by any party and as Witness to depone in a cause as matter to proof, after litis contestation. Tho there in, but was only Examined by the Privy Counsel and Cinerem Veritatem, for Informing them how to proceed against the Defenders. Nor was her Examined upon oath and no person can be perjured without taking an oath. 2/ A Woman cannot in our Law be a Witness, and Consequently cannot be a false Witness. 3/ The Verity of what she declared is not Redargued by Lawful proof, but only by her own Confessions. Which Vacillation and Wavering cannot be Considered as false Witnessing but as the Result of the Confusion a poor Lassie Young Woman was in when sis had before the Supreme Judges of the Nation, to give testimony in a Criminal Matter from which her 8 years