

1695. *June 29.* CRAWFORD *against* VALLANCE'S HEIRS.

No. 244.

A mutual contract becomes an effectual deed upon the subscription of the parties, and requires not delivery to complete it.

Durie.

* * * This case is No. 62. p. 12304. *voce* PROOF.

* * * The like found 23d June 1626, Maxwell *against* Ld. Drumlanrig, No. 63. p. 12304. IBIDEM.

1626. *December 16.* BYRES *against* JOHNSTON.

No. 245.

An obligation to dispone lands, being put into a writer's hand, in order to form a charter thereupon, found, That the purchaser could not have exhibition of the bond, or oblige the seller to implement, unless he could subsume, that the bond was given to the writer for his, the purchaser's behoof, in order to be delivered up to him.

Durie. Kerse.

* * * This case is No. 15. p. 8405. *voce* LOCUS PœNITENTIÆ.

1627. *December 14.* DICKSON. *against* DICKSON.

No. 246.
Deed in fa-
vour of a wife.

In an action for delivery of a house, pursued by Dickson, heir to the heritor thereof, against Dickson his relict, who defending herself with a charter made to her of the house libelled during her lifetime by her husband; the Lords sustained that exception upon the charter against the heir who was pursuer, albeit no sasine had followed thereon in the maker's lifetime. And it being further replied by the pursuer, that that charter could not furnish any defence to the relict, because it remained ever in the defunct's hands and keeping, so long as he lived, and was never delivered to her, nor became her evident in her husband's lifetime, but being amongst the defunct's other writs the time of his decease, was after his decease found amongst the defunct's writs then intromitted with by her; which reply the Lords found relevant to be proved by the defender's oath, albeit she alleged, that the reply was not relevant, and that she ought not to be compelled to give her oath, how that writ came in her hands, seeing the same being now in her hands, and being an evident made in her favours, it was sufficient to her, either to produce action thereon against the heir of the maker, or to defend her against the heir's pursuit, seeing the same was never revoked by her husband,