

No. 282. 1626. July 6. MATTHEW CHEAP *against* AGNES MOWAT.

A contract of marriage whereupon marriage followeth needs not be subscribed with two notaries and four witnesses conform to the 80th act of Parliament 1579.
Spottiswood. p. 203.

No. 283.

A bond subscribed by two notaries, before three witnesses only, found unchallengeable, in consequence of payment of annual-rent.

1627. November 20. LOCKIE *against* ———.

Lockie pursues a reduction of a bond of 400 merks granted by umquhile Lockie his ——— to ———, against ———, assignees constituted thereto, and having comprised thereon ex hoc capite, that it was subscribed only by notaries for the party, and before three witnesses inserted and subscribing, against the act 1579. Mowat answered, The three inserted and subscribing were a greater solemnity than four inserted, and none subscribing which were sufficient by the act: Farther, the co-notary was a witness, and so made four: Lastly, As a Bailie might be witness in a sasine, so might a co-notary. (Cunningham procurator.) Replied, Oppones the act. Reduces, notwithstanding of the answer. Thereafter answered, Homologated by payment of annual-rent by the granter sundry years. Replied, Non relevant nisi probat. scripto vel juramento partis, and that they declare whilk of time they will use probation. The answer, Scripto vel juramento, which at the first term.

Nicolson MS. No. 20. p. 10.

1628. March 11. MUIR *against* CRAWFORD.

No. 284.

A marriage-contract, informally executed by notaries, was sustained, as marriage followed.

In a suspension by Muir against Crawford, of a decret of transferring of a registrated contract against his father, and transferred in him as heir to his father, by the which contract his father was obliged to pay to Crawford 200 merks for tocher good, obliged to be paid by the said umquhile Muir to the charger, in marriage with one Cunningham, who was sister to Muir's wife, and which was suspended by Muir's heir, in whom as said is, it was transferred, because it being a matter of importance, viz. 200 merks, it was only subscribed by a notary for him, before two witnesses; and the charger opposed his decret standing, and also that it was a contract of marriage, whereupon marriage followed;—the Lords found the letters orderly proceeded, notwithstanding of that reason, seeing it was a contract of marriage, for payment of tocher, whereupon marriage followed; and had no respect to the suspender's reply, whereby he replied, that he was not obliged