1630. *January* 12. ARCHBALD MORTON *against* AGNES ELLIOT.

ARCHBALD Morton charged Agnes Elliot for £106, conform to her bond. She suspended upon the Act of Parliament 1579, finding all matters of importance, not subscribed by two notaries and four witnesses, null; but so it was, that the pursuer's bond was only subscribed by one notary and three witnesses. The Lords, after that the matter was continued three or four times, at last deliberately gave their interlocutor, that the pursuer might restrict his bond to a hundred pounds, although it contained more, and that it should stand good for so much, and only be null for the superplus.

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1630. *January* 13. UTHRED MACKDOUGAL of MONDURK *against* ROBERT COCKBURN of BUTTERDEEN.

UTHRED Mackdougal of Mondurk pursued a contravention against Robert Cockburn of Butterdeen, and some others. He libelled, That the defender had come upon his wife's conjunct-fee lands, pertaining to him *jure mariti*, and there had carried away so many threaves of corn off his land. Alleged, He having got the right of the teinds of his lands, for that year, from the relict of the parson of Oldhamstocks, to whom they pertained *jure annatæ*, he had intromitted with the corns libelled, by virtue of that right, as the teinds of the said lands; and so did no wrong. Replied, He could not lawfully do it, because the relict herself could not have led the teinds, not having served inhibition before; seeing the pursuer, the year preceding, had led his own teinds by a right made to him for that year by the parson defunct. The Lords found, in respect there was no violence libelled, and that the defender clothed himself with a title, (whether good or not, the same thing,) that the libel was not sufficient to infer a contravention. Next he libelled, that the defender and his accomplices had violently pulled his sword from him, broken the hingers thereof, and kept it ever since, to his great disgrace. Alleged, He offered to prove that he did it in his own defence, the pursuer having offered to draw his sword, by which they feared to have incurred skaith. The Lords found this allegeance relevant.

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1630. *January* 30. A. MURTHLAND *against* WILLIAM JOHNSTON.

BETWIXT A. Murthland, relict of John Thomson, and William Johnston, —it was found, that a bond made to John, and, failyieing of him by death, to William, John having died before the term of payment, did appertain to William: The matter being contentiously reasoned, some thought it hard,—it being *in bonis defuncti*, and at his disposal all his time,—that it should not be confirmed as his; whereby both creditors and relict are prejudged.

Nota, No question, if John had outlived the term, but it would have fallen to his executors, and not to the party substitute.

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1630. *January* 22. MARION PEEBLES *against* LORD ROSS.

CRAIG's opinion may be reconciled with the Lords' decision thus: For when the retour containeth a liquid silver-duty, all the bygones thereof must be paid before the superior be obliged to infeft his vassal, as in the decision mentioned, Earl of Wigton against the Lord Yester; but, where the duty is not constituted, nor liquid, as in ward-lands, it is not reason to hinder the superior to enter the vassal, because he is not paid of the non-entry duties subsequent to the ward, but he must pursue for it by way of action, as was found betwixt Marion Peebles and my Lord Ross.

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1630. *February* 16. JOHN HARPER *against* DAVID JAFFRAY.

DAVID Jaffray, by his ticket subscribed by him, (without witnesses,) granted himself to be owing to a French merchant in Roanne, 1100 francs. The Frenchman made assignation thereof to John Harper, who pursued David for it: Alleged, The bond was null, wanting witnesses, and not designing the name of the writer: likeas further, he denied that it was his subscription. Replied, for the nullity, Not receivable; it being a French bond made to a stranger, who is not to be bound by our laws; likeas, he offered to prove, that it is the custom of Normandy to sustain such bonds and give action upon them. And, as to his denial that it was his subscription, he cannot be heard; but he ought to improve it. Duplied, The means of improbation was taken away, the bond wanting witnesses; but the pursuer should approve it. The Lords repelled the exception, in respect of the reply, the pursuer proving the custom alleged.

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1630. *March* 3. The LAIRD of KELLWOOD *against* JOHNSTON.

THE contrary of this (the decision in the case, Bisset against Forbes, 1627, February 9,) was found in the same very terms, between the Laird of Kellwood and Johnston.

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1630. *March* 5. JOHN CANT *against* GRAY.

MR John Cant, being heritably infeft in the lands of Laureston, pertaining to