

No. 332.

1781. *July 19.*RYMER *against* M'INTYRE.

An indenture was subscribed by the master, apprentice, and apprentice's father, but wanted the statutable solemnities. The father after three years took away his son, on account of alleged bad treatment by the master, who brought an action of damages. The defence that the indenture was informal and void, was repelled, on account of the homologation by acquiescence.

*Fac. Coll.*

\* \* This case is no No. 97. p. 5726. *voce* HOMOLOGATION.

1782. *November 25.*KATHARINE WALLACE and Others, *against* WILLIAM WALLACE.

No. 333.

A missive letter, not holograph, containing an obligation of relief, is not a ground of action, though the subscription be judicially acknowledged.

William Wallace subscribed an obligatory missive letter, not holograph of himself, by which " he became bound to relieve Katharine Wallace of a cautionary engagement" incurred by her father for a third party. She having brought an action against him on that ground, he judicially acknowledged his subscription ; but contended nevertheless, that by its wanting the statutory solemnities, the writing was null.

The cause was advocated from an inferior judge who had assoilzied the defender, when

The Lord Ordinary repelled the reasons of advocacy.

The pursuer reclaimed to the Court ; but their Lordships refused her petition, without answers.

Lord Ordinary, *Braxfield.*For the petitioner, *G. Buchanan-Hepburn.**Fac. Coll. No. 70. p. 109.*

No. 334.

1784. *June 18.*JAMES SPENCE *against* WALTER SPENCE.

In this case the Court found, that a writing, though in the proper form of a bill, and though not proved to be false, yet could not from the circumstances in which it appeared, be sustained as probative, or as a ground of action. See APPENDIX.

*Act. H. Erskine.**Alt. M. Ross.**Clerk, Menzies.**Fac. Coll. No. 158. p. 247.*