

THE LORDS found, that Aldie had no prejudice by the arbiters delegation of the Lady's aliment, claimed by Invernitye, in respect he passed from the same judicially; and, therefore, sustained the decreet arbitral, except as to the penalty.

No 6.

Forbes, p. 327

SECT. III.

Writs of importance subscribed by only one Notary.

1616. November 29. GIBSON *against* EXECUTORS OF EDGAR.

IN an action pursued by David Gibson *contra* the Executors of umquhile Edward Edgar, the LORDS found a bond of L. null, because it was only subscribed by one notary; and where the party would have retrenched his sum to L. the LORDS found, that the bond was not divisible.

No 7.

Fok. Dic. v. 1. p. 463. Kerse, MS. fol. 47.

1623. November 13. MARSHALL *against* MARSHALL.

IN an action of transferring, Marshall *contra* Marshall, the LORDS sustained a sasine produced, to verify the defender to be heir to his predecessor, which was given to him by hasp and staple, by the bailies of Kirkcaldy, of a tenement of land in Kirkcaldy; which sasine, the LORDS found sufficient to prove the defender heir, albeit that it was *alleged*, that it could not prove, wanting an adminicle, being only the assertion of a notary, and no retour, nor other warrant produced for giving thereof. And where it was *answered* by the pursuer, That Kirkcaldy was the King's free burgh; and that the form in all burghs was to give sasines after this manner, without any other adminicle; the defender *duplied*, That albeit Kirkcaldy had the privilege of the King's free burghs royal, yet they hold not their lands, nor the town of the King's Majesty in burgage; but they hold the same of the Prince, as Lord of Dumfermline; so that sasine of the lands, so holden, could not be given without some warrant or adminicle; albeit the King granted them the liberty of a burgh, which altered not the holding of their town and lands; which *allegance* and *duply* was repelled; in respect the said sasine was the defenders.

No 8.

Found in conformity with the above.