

THE LORDS found, that Aldie had no prejudice by the arbiters delegation of the Lady's aliment, claimed by Invernytie, 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 heip 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.

No 8.

own deed, whereupon he himself had taken instruments, and so could not oppose to the same; and for the same reason, they repelled this other allegiance, whereby the defender quarrelled the sasine upon nullity, for not being registered in the clerk of registers books, because that allegiance was not competent, but to a third party, who had a sufficient right in his own person, as is expressed in the act of Parliament, *anno* 1617, cap. 16. which is the ground of the allegiance, far less could the excipient impugn his own right.

In this same process, the LORDS found an obligation of L. 100 null, which was subscribed by a notary and four witnesses, because it was not subscribed by two notaries, and found any writ bearing L. 100, and above, to be a matter of importance, and would not suffer the party to retrench the obligation to any less quantity, inferior to the sum therein expressed. See PROOF. REGISTRATION. WRIT.

Act. *Lermonth.*Alt. *Aiton.*Clerk, *Scott.**Fol. Dic. v. 1. p. 463. Durie, p. 79.*

No 9.

1628. *December 2.*ROBISON *against* JAMIESON.

IN a transferring of a contract betwixt two parties, whereby the one sells some wares to the other, at the price contained in the contract for each stone thereof, and granted him to have received L. 80 in part of that price; this contract being registered, was desired to be transferred in the heir of him, who was obliged for the wares after the contractor's decease. And the defender *alleging* a nullity of the contract, because it was of a matter for above L. 100, which thereby was a matter of importance, and was only subscribed by a notary before three witnesses; this allegiance was repelled, because the pursuer restricted his pursuit to have execution only for the L. 80 confessed to be received thereby; for the which the Lords sustained the pursuit, for delivery of as many of the wares sold by the contract as effeired to that sum received by the conception of the contract, and also because the contract was registered.

Fol. Dic. v. 1. p. 463. Durie, p. 403.

No 10.

1630. *January 22.*MORTON *against* ELLIOT.

MORTON pursues Elliot and her spouse for payment of L. 106 contained in a bond made by her to the charger before she was married. It was *alleged*, the bond was null, for L. 106 was a matter of importance, and the bond was subscribed but by one notary. It was *answered*, That the charger was con-