

1676. *November.* ANENT NON-ENTRY OF BLENCH LANDS.

QUÆRITUR, If Blench Lands fall so in non-entry, as, after decret of declarator, the superior or his donatar will get the full maills and duties. He has right to them after declarator in all other holdings, but the *ratio dubitandi* in blench is because they bear a *reddendo, pro omni alio onere*; yet that cannot be a convincing reason, because notwithstanding thereof, their liferent falls, they pay cess, and bear burden, &c.
Advocates' MS. No. 508, § 3, folio 266.

1676. *November.* ANENT THE EXCEPTION OF HOMOLOGATION.

THE Lords have oft laid weight upon this exception,—You cannot be heard, because you have homologated my right by such and such illative and consequential deeds. See Stair's System, Tit. 10. of Conventional Obligations, § 11, folio 101. See the case between Sir Andrew Ramsay, and Mr David Thoirs. See 15th *June*, 1678, *Louthians*. Yet now they require that the deeds of homologation be very express and positive ratifications, free from all error or mistake before they make them bind. As for instance, Seius has an undoubted preferable right to the lands of ; Titius has a base infeftment out of the same lands; Seius not considering the validity or invalidity of the two rights, if in a competition, he pays an year's annualrent to Titius, who has the base infeftment, this acknowledgment and payment will not hinder Seius, being better informed, to reduce that base infeftment, and totally seclude it; only he will never be heard to repeat what annualrents he paid; for *bona fide solutum nequit condici, et suberat causa quædam*. *Vide supra*, February, 1673, No. 385. [Sir James Ramsay *against* Robertstone.] Yet a wife or a minor ratifying deeds done by them in minority, or when clad with husbands, are firmly bound thereby. See my Index of Dury's Practicks, *verbo Minors, numero 62, pen.* July, 1630, *Johnston*; and 11th January, 1639, which last citation I cannot find. *Vide infra*, June, 1677, No. 581. [*Dicksone against Short.*]
Advocates' MS. No. 508. § 4, folio 266.

1676. *November.* ANENT THE WRITERS OF DEEDS.

THOUGH any designation in a writ satisfies the words of the act of Parliament in 1579, in case of improbation, yet the Lords have now ordained witnesses and writers, to be more specially designed than by that general and wide appellation of being called writers in Edinburgh. *Vide supra*, No. 319, at the 7th of February, 1672, *Kettleston and Kirkhill*.

Advocates' MS. No. 508, § 5, folio 266.