distinctions as have been lately made. None of the statutes point out what ground it is that is laid open for hunting. What sort of a right is that which is given over a kingdom, and of which the exercise may be prevented every where by the erecting of a fence?

PRESIDENT. If I am asked, Whether game be property, I shall answer No, unless possession be obtained. The question here is, Has a man right to use his own ground? Every man has, unless liable in a servitude. I have no right to fish in a stream, but, if the banks be mine, I may keep every one off the banks; the civil law is express. Hunting, by the feudal law, is derived from the king as an *exclusive* right. The quotation from our old laws is plainly erroneous. Our statutes and our lawyers agree against the right claimed by Mr Livingston.

GARDENSTON. No statute says, "that any man may hunt where he pleases." In this proposition all our best and most approved writers concur.

HENDERLAND. A right to hunt is a *modus acquirendi dominii*, but it does not give a direct property.

On the 16th June 1790, "The Lords decerned in the declarator, and granted interdict, and found expenses due, altering the interlocutor of Lord Monboddo.

Act. Ad. Rolland. *Alt.* A. Wight.

Diss. Monboddo.

N. B. While this cause was before Lord Monboddo, he heard it pleaded in great state. At nine o'clock he took the President's chair, and continued in it from day to day, till the Court met. Thus matters were protracted till the very last day of the summer session 1789, when he gave judgment, instead of taking the cause to report.

1790. *June* 23. JAMES BLAIR *against* JOHN SWORD and OTHERS, CREDITORS of PETER RATTRAY.

BILL OF EXCHANGE.

A bill bearing a stipulation for interest from the date, holograph of the acceptor, was sustained in a competition of creditors.

[*Faculty Collection*, *X.* 280; *Dictionary*, 1433.]

ESKGROVE. These bills are not probative by reason of the stipulation of interest. That stipulation changes the nature of bills; and as the solemnities of writing are absent,—necessary in writings which are not of the nature of bills,—the writings become not good. That the bill is holograph of the acceptor makes no difference in a question with creditors.

JUSTICE-CLERK. The bills do, in effect, stipulate interest. Here there is a

double stipulation, one for interest and another for principal. Pay L.200. and also L10, would have been a good form of a bill. Homologation by payment is good against exceptions founded on the Act 1681.

HAILES. It has appeared after inquiry, that no fraud can be charged against this transaction. Had Rattray been alive and solvent, he could not have objected to this as a *literarum obligatio*, because the nullity was of his own making: he would have been barred by the exception of fraud. Shall his creditors be allowed to take advantage of a plea which he himself would not have been permitted to urge?

PRESIDENT. Decisions go far in setting aside, not only the stipulation of interest, but also the principal, on account of such stipulation; and I do not go back upon decisions. Exceptions ought to be made as to foreign bills of exchange, which frequently contain stipulations of interest: an exception might also be made as to merchants' bills or promissory notes. This is a holograph writing: if good against Rattray, it would be good against every one in his right.

HENDERLAND. The decisions denying action, or bills bearing interest, were not founded on mercantile law. [If bills had continued merely as substitutes for the conveying money from place to place, those decisions would never have been pronounced, and, whenever bills resume their original nature, they will not be repeated. At present, every informal scrawl is dignified with the name of *bills*. We have seen legacies, marriage articles, cautionary obligations, and discharges from such obligations, constituted by what is called a *bill*; and I despair not of seeing indentures, and promises to marry, in the like form.]

On the 23d June 1790, "The Lords, in respect of the circumstances of the case, passed the bill of advocation;" altering the interlocutor of Lord Dreghorn.

Act. Wm. Honeyman. *Alt.* A. Wight.

Diss. Eskgrove, Swinton.

N. B. From the manner in which the case was treated, this may be considered as a decision in favour of Blair.

1790. *June* 23. ROBERT CARRICK *against* HENRY WILLIAM HARPER.

BILL OF EXCHANGE.

Although, on account of circumstances, the dishonour of a promissory note was not intimated by one indorser to another till the 19th day; the court found recourse was not lost, there being no negligence or unnecessary delay.

[*Fac. Coll. X.* 259; *Dict.* 1614.]

JUSTICE-CLERK. Proposed to alter his own interlocutor.

PRSIDEENT. Recourse is still open. This is a promissory note to the effect of being an inland bill. The rule as to three posts, mentioned by Mr Erskine,