

1630. *January 12.* ARCHBALD MORTON *against* AGNES ELLIOT.

ARCHBALD Morton charged Agnes Elliot for £106, conform to her bond. She suspended upon the Act of Parliament 1579, finding all matters of importance, not subscribed by two notaries and four witnesses, null; but so it was, that the pursuer's bond was only subscribed by one notary and three witnesses. The Lords, after that the matter was continued three or four times, at last deliberately gave their interlocutor, that the pursuer might restrict his bond to a hundred pounds, although it contained more, and that it should stand good for so much, and only be null for the superplus.

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1630. *January 13.* UTHRED MACKDOUGAL of MONDURK *against* ROBERT COCKBURN of BUTTERDEEN.

UTHRED Mackdougale of Mondurk pursued a contravention against Robert Cockburn of Butterdeen, and some others. He libelled, That the defender had come upon his wife's conjunct-fee lands, pertaining to him *jure mariti*, and there had carried away so many threaves of corn off his land. Alleged, He having got the right of the teinds of his lands, for that year, from the relict of the parson of Oldhamstocks, to whom they pertained *jure annatae*, he had intromitted with the corns libelled, by virtue of that right, as the teinds of the said lands; and so did no wrong. Replied, He could not lawfully do it, because the relict herself could not have led the teinds, not having served inhibition before; seeing the pursuer, the year preceding, had led his own teinds by a right made to him for that year by the parson defunct. The Lords found, in respect there was no violence libelled, and that the defender clothed himself with a title, (whether good or not, the same thing,) that the libel was not sufficient to infer a contravention. Next he libelled, that the defender and his accomplices had violently pulled his sword from him, broken the hinges thereof, and kept it ever since, to his great disgrace. Alleged, He offered to prove that he did it in his own defence, the pursuer having offered to draw his sword, by which they feared to have incurred skaith. The Lords found this allegiance relevant.

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1630. *January 30.* A. MURTHLAND *against* WILLIAM JOHNSTON.

BETWIXT A. Murthland, relict of John Thomson, and William Johnston, —it was found, that a bond made to John, and, failyieing of him by death, to William, John having died before the term of payment, did appertain to William: The matter being contentiously reasoned, some thought it hard,—it being *in bonis defuncti*, and at his disposal all his time,—that it should not be confirmed as his; whereby both creditors and relict are prejudged.