a back-tack to the Laird of Bonnymoon, for payment of a greater duty nor ten for the hundred, and so his infeftment, being usurary, was null by Act of Parliament. The Lords restricted his infeftment for time coming, to ten for the hundred, and decerned poinding of the ground for the superplus of the duty of the lands. To the which it was duplied, No poinding for any part of the duty; because the Laird of Bonnymoon had renounced the back-tack before the intenting of Clackmannan's pursuit, and so his infeftment entitled him to the property of the lands aye and while the redemption. Which duply the Lords found relevant.

Page 107.

1631. *March* 8. Sir Archibald Achieson *against* The Earl of Annandale.

In the action betwixt the Earl of Annandale and Sir Archibald Achieson, secretary, wherein Sir Archibald, upon a bond made to him by the said Earl, bound and obliged him to satisfy Sir Archibald for his right of certain lands in Ireland, at the sight of certain arbiters chosen by them, and, in the mean time, not to dispossess the said Sir Archibald, nor to move any question, petitory or possessory, against him, while he was satisfied therefor;—this bond, bearing a consent to be registered in the Books of Council and Session, is registered, and, thereupon, Sir Archibald charges the Earl. He suspends. The first reason is a declinature of the judgment, both in respect that the Earl, long before the bond, and sinsyne, has been in England, residing with his house and family. *Secundo*, That the subject being concerning the right and possession of lands in Ireland, the same cannot be judged here; and alleged a practique decerned *in anno* 1614, betwixt Boyd of Arbrock and Sir Hugh Montgomerie, where a bond, betwixt them, being pursued before the Lords, was remitted to be judged in England. To the which it was replied, Although the Earl was resident in England, yet both he and the defender were Scotsmen, and the defender had an estate in Scotland, whereunto the pursuer restricts his execution; to the *second* reason, it was answered and replied, That he pursued not here for the discussing of the right of his lands, but allenarly for his interest; in so far as, against his bond, he dispossessed the pursuer, and uplifted the duties to these lands, wherein the pursuer was in peaceable possession the time of the bond and divers years before; and, as for the practique, it meits not, for the bond alleged betwixt Arbrock and Sir Hugh, was a bond made in Ireland, and bore no registration in the Books of Council; whereas this bond was ordained to be registered in the Books of Council, and so both parties had consented that the Lords should be judges thereto. In respect whereof the Lords repelled the declinature.

Page 114.

1631. *March* 10. Francis Stewart of Cunningham *against* The Lady Sanderson.

Umquhile Hercules Stewart had a tack of the teinds of Swinton set to him for the lifetimes of him and his spouse, and heirs to be gotten betwixt them,