

No. 47.

1634. *March 22.*OCHILTREE *against* MILLER.

Found, contrary to No. 40. p. 16830. that an obligation for £100 Scots is not a writ of great importance, and therefore it was sustained, though signed but by one notary, before two witnesses.

*Durie.*

\* \* This case is No. 15. p. 3627. *voce* ESCHEAT.

No. 48.

1635. *December 5.*SOUTER *against* CRAMOND.

A disposition of moveables by a tenant to his master, in security and payment of by-gone tack-duties, about 4 or 5,000 merks was sustained, though signed but by one notary.

*Durie.*

\* \* This case is No. 8. p. 3098. *voce* CONSUETUDE.

No. 49.

Found in conformity with Littlejohn *against* Hepburn, No. 32. p. 16828.

1637. *January 31.*VEITCH *against* HORSBURGH.

By a contract betwixt one Horsburgh and the relict of Veitch of Dawick, the lands of ——— were set to her in tack for the duty therein contained; for the payment of the which duty, she being convened for payment of divers years possessed by her, and the said contract being subscribed by two notaries for her, and produced for the ground of the pursuit; she alleged the contract to be null, and not to be obligatory against her, seeing it bears only to be subscribed by two notaries before four witnesses, which, although it be lawful by act of Parliament, where the party cannot write, yet ought not to be authorized in this case where the party can write herself, as she can do, and as ever has been in use to be done by her in all matters, which had necessity of her subscription; for she was very skilled in writing, and she alleged that it was a preparative of an evil example, to bind her by the deed of notaries, who might wrong her against her own will, and to omit the right and ordinary means, which was by her own proper hand writing and subscription. The Lords repelled the allegiance, and sustained the contract, for it might be that the party, although she could write, might have affirmed to the notaries that she could not write, or might possibly be at that time in some distemper or sickness, or might have had some impediment in her hand, which justly might have hindered herself to subscribe, or some such other casual accident, which letted her then to write; so that the Lords found, the subscribing of a writ by a party, by two notaries, before four witnesses, albeit for a party who could