

1711. *December 1.* STIRLING of KEIR, and CARMICHAEL of BONINGTON, *against* The EARL of GLASGOW, SIR GEORGE HOME, and OTHERS, Tacksmen of the Customs.

IN a competition betwixt thir parties, on Murray of Spot's estate, the customers produce a bond granted by him, as cautioner for Kenneth Urquhart, their collector at Ayton, for £1800 Scots, wherein he fell short.

OBJECTED,—The bond is null by the 179th Act 1593 and the 5th Act 1681, requiring all writs to contain the writer thereof; whereas this is a printed bond, wanting the name of the printer; the design of the Act, by that practice, being wholly evacuated, which is, that, by inserting the writer's name, they get much light in the trial of the falsehood or truth of the bond. Neither does the printing supply this; for if it were good without it, then no imaginable reason can be given why a written security, wanting the writer's name, is not as good as the printed one without it; and *pacta privatorum* cannot derogate from such public profitable laws. And the offering to prove the verity of the subscription by Spot's oath, would do very well against himself, but can never prove in this competition against co-creditors, he being broken.

ANSWERED,—The sustaining such printed bonds is become a law by the force of custom, which is the best explainer of law; and the filler-up of the debtor's name, the sum, with the designation of the witnesses, (which are the essentials of a bond,) is *nominatim* inserted; and these printed bonds are become frequent in all public societies to facilitate commerce; as in the tacksmen of the customs and excise, the African Company, the Newmills manufactory, discharges of cess, &c.; that to call them in question would at one stroke unhinge many securities in the nation, and retard the management of trade. These printed blank bonds lying beside them, so their clerk has no more ado but to fill up the essential parts, and declare by whom it is done: and there is no law discharging the use of printed bonds. And the Acts of Parliament cited do not touch this case, and are fully satisfied by inserting the name of him who fills up the blanks.

The Lords repelled the nullity objected, and sustained the printed bond, filled up in manner foresaid. By which decision it appears, if it did not bear the name of the filler-up and inserter of the blanks, then it would be null.

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1711. *December 6.* ROBERT LENTRON *against* LIEUTENANT WOOD.

MR John Lentron of Kincapple having granted a renunciation of an infestment of annualrent he had out of the Earls of Southesk and Balcarras their estates, and likewise granted a bond of 4000 merks to Catharine Wood, his spouse; Robert Lentron, his heir, pursues a reduction of these deeds, as done *in lecto*, against Lieutenant Wood, the said Catharine's representative: who compared, and took terms to produce the writs called for; but at last suffered certification to pass against them, for not production. Robert Lentron considering this decret of certification would be of small avail to him, being only in a simple reduction, (for they would be reponed any time after this, by satis-