

1781. *July 4.* GEORGE, &c. GRIERSONS *against* WILLIAM KING.

WRIT.

[*Fac. Coll. VIII. 111; Dict. 17,054.*]

MONBODDO. The subscription is acknowledged: that is sufficient; but the subject did not fall under the *jus mariti*.

BRAXFIELD. Before the term of payment arrives, the subject is simply moveable: here the term of payment was the term after the death of the testator, and at that term the woman was married, so that the subject fell under the *jus mariti*. But I doubt as to the other point: the transaction was of that nature as to require writing, and the writing here adhibited is improbative.

PRESIDENT quoted decision, *Foggo against Millican*: acknowledgment may do: when the subject of the writing does not require solemnities.

On the 4th July 1781, "The Lords repelled the defences;" altering Lord Kaimes's interlocutor.

Act. R. Cullen. *Alt.* Mark Pringle.

1781. *July 14.* JAMES RYMER *against* ALEXANDER MACINTYRE.

HOMOLOGATION—APPRENTICE.

Informal Indenture homologated by the Service having taken place.

[*Faculty Collection, VIII. 1128; Dictionary, 5726.*]

BRAXFIELD. If a statutory nullity is not capable of being waved by homologation, the objection will not cease even after the years of prescription, and thus prescription may come to be no good defence even in land-rights. When a tack is liable to a statutory nullity, if the parties go on to implement, the objection flies off,—so also in marriage-contracts, if marriage ensue: here the apprentice entered to the service, and continued in it for three years:—was instructed and maintained by the master. This is sufficient to found a plea of homologation.

On the 14th July 1781, "The Lords found the cautioner liable, in respect