

1609. *November 29.* WEIR *against* MOFFAT.

No. 274.

Weir charged Moffat and Coulter to pay to him 500 merks conform to their registrated obligation. They suspended, alleging that it was null, being a matter of consequence, and only subscribed by one notary, and containing only three witnesses. It was excepted, that the parties were only six, and they would supply the want of solemnity by the parties' oaths, who gave command to the notary. They answered, That the bond being null of the law, could not be supplied, nor the party urged to make faith; notwithstanding whereof, the Lords admitted the reply to be proved by the parties' oath to sustain the obligation.

*Haddington MS. v. 2. No. 1665.*

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1611. *June 22.* REDPATH *against* HUNTLY.

No. 275.

A man having given acquittance of 800 merks subscribed by one notary at his command, he quarrelling the nullity of the acquittance, because it being a matter of consequence, and subscribed only by one notary; it may be supplied by the defender's offer to refer the verity of the pursuer's command to the notary to subscribe for him, albeit the defender allege no payment.

*Haddington MS. v. 2. No. 2235.*

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1612. *March 7.* BOSWELL *against* KINNINMONTH.

No. 276.

Boswell pursued Kinninmonth as universal intromitter with his father's gear to pay him the by-run teinds of divers years. The defender alleged that he could not be called as intromitter with his defunct father's gear, because divers years before his decease he made assignee to the tack, and possession of his means and goods and gear being therein, and by virtue thereof obtained possession divers years before his decease. It was alleged that the assignation was null, being a matter of consequence, and only subscribed by one notary. It was answered, That since the date thereof, the cedent had in effect approved the same, by giving an acquittance subscribed by two notaries of a year's duty appointed to be paid to him by the said assignation, which the Lords found relevant.

*Haddington MS. v. 2. No. 2428.*