Nota, No question, if John had outlived the term, but it would have fallen to his executors, and not to the party substitute.

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1630. *January* 22. MARION PEEBLES *against* LORD ROSS.

CRAIG's opinion may be reconciled with the Lords' decision thus: For when the retour containeth a liquid silver-duty, all the bygones thereof must be paid before the superior be obliged to infeft his vassal, as in the decision mentioned, Earl of Wigton against the Lord Yester; but, where the duty is not constituted, nor liquid, as in ward-lands, it is not reason to hinder the superior to enter the vassal, because he is not paid of the non-entry duties subsequent to the ward, but he must pursue for it by way of action, as was found betwixt Marion Peebles and my Lord Ross.

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1630. *February* 16. JOHN HARPER *against* DAVID JAFFRAY.

DAVID Jaffray, by his ticket subscribed by him, (without witnesses,) granted himself to be owing to a French merchant in Roanne, 1100 francs. The Frenchman made assignation thereof to John Harper, who pursued David for it: Alleged, The bond was null, wanting witnesses, and not designing the name of the writer: likeas further, he denied that it was his subscription. Replied, for the nullity, Not receivable; it being a French bond made to a stranger, who is not to be bound by our laws; likeas, he offered to prove, that it is the custom of Normandy to sustain such bonds and give action upon them. And, as to his denial that it was his subscription, he cannot be heard; but he ought to improve it. Duplied, The means of improbation was taken away, the bond wanting witnesses; but the pursuer should approve it. The Lords repelled the exception, in respect of the reply, the pursuer proving the custom alleged.

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1630. *March* 3. The LAIRD of KELLWOOD *against* JOHNSTON.

THE contrary of this (the decision in the case, Bisset against Forbes, 1627, February 9,) was found in the same very terms, between the Laird of Kellwood and Johnston.

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1630. *March* 5. JOHN CANT *against* GRAY.

MR John Cant, being heritably infeft in the lands of Laureston, pertaining to