

likewise be observed, that, although every other bond is particularly specified in her testament, yet no mention is therein made of the two bonds in question.

“THE LORDS, in respect of the particular circumstances of the case, found, That the two bonds in question, for 10,000 merks each, must be delivered up to the pursuer, John Ramsay, to be used as his property.”

For John Ramsay, *Lockhart & Johnston*. For George Norval, *Burnett & Rae*: Clerk, *Ross*.  
*A. W. Fol. Dic. v. 4. p. 135. Fac. Col. No 114. p. 266. & No 125. p. 295.*

No 46.

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### SECT. III.

#### What Proof relevant to take away Writ.

1533. February 11. & March 6.

JASPER CRANSTOUN of Corsbie *against* GEORGE HOME.

GIF ony persoun beand callit for spuilzie of teindis, or ony uther gudis and geir, alledgis that ony man, in his name, transactit with the persewar, that he sould intromet with the samin teindis or geir; this samin alledgeance is sufficient, and saifis him fra spuilzie, bot he aucht and sould preive the samin be writ, and not be witnessis.

*Fol. Dic. v. 2. p. 221. Balfour, (OF PROBATION BY WRIT.) No 13. p. 365.*

No 47.

1534. December 5. A. *against* B.

ANE decreite of removing beand gevin aganis ony persoun, and thairefter he be sufferit, be licence and tolerance of the obtenar thairof, to sit still, and labour the ground, to ane certane term or time, and it happin thairefter ony questioun or contraversie to arise tuichand the said pactioun of licence or tolerance, the samin sould not be provin be witnessis, bot be writ.

*Fol. Dic. v. 4. p. 220. Balfour, (OF PROBATION.) No 32. p. 357.*

No 48.

1540. January 21. Lord SOMERVELL *against* N.

TRANSACTION and compositioun may not be provin be witnessis, bot be writ.  
*Fol. Dic. v. 2. p. 220. Balfour, (OF PROBATION BY WRIT.) No 17. p. 365.*

No 49.