

out any dispensation specified in the decret, if the same be given by not compearance, is null ; but, if it be given *in foro contradictorio*, it will stand.

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1627. December 27. ————— against —————.

A MAN, being sick, makes an assignation to his bairns of a bond owing to him, whereof intimation is made to the debtor. The cedent recovers, and charges for the sum at his own instance ;—the debtor suspends, upon a double poinding, *viz.* the father, maker of the assignation, and the bairns, who were made assignees, and the assignation intimated. The Lords ordained the father to be answered.

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1628. January 11. The RELICT of SIR WILLIAM SHARP of BANDOCHÉ *against* JOHN SHARP, Her SON.

THE relict of Sir William Sharp of Bandoche, Knight, and Sir ——— Sinclair, her spouse, for his interest, charge John Sharp, her son, and heir to his father, to fulfil her the conditions contained in her contract of marriage. The failies were ;—that seeing, by contract, her umquhile husband was obliged to infest her in the lands of Bandoche, and to warrant the said lands to be worth to her, during her lifetime, 8 chalders of victual of free rent ; and, since the decease of her husband, she has been compelled to pay taxation, and the duty of the tack of the teind, and the augmentation of 4 bolls victual, imposed by the prelate upon the teinds, whereby her rental of 8 chalders of victual was diminished. The Lords suspended the letters, *simpliciter*, for the taxations bygone and to come, which the lady liferentrix ought to pay out of the rent, except the contrary had been expressly set down in her contract ; as also, suspend the letters for the tack-duty and augmentation for all years preceding the charge ; and, in time coming, ordains John Sharp to relieve his mother for the tack-duty and augmentation.

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1628. January 11. MARK HAMILTOUN *against* JAMES BROWNE.

A CREDITOR denounces the debtor's lands to be appraised : Upon the same day, another creditor gets disposition made to him of the same lands heritably. The Lords prefer the disposition, and infestment following thereupon, clad with possession, to the denunciation, seeing no inhibition was served at the compriser's instance.

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