

goods pertaining to W. White, his debtor. The Lords found there was no necessity of continuation, because he craved only that right which his debtor had to these goods, adjudged to pertain to him.

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1629. *March 6.* The BISHOP of the ISLES *against* his VASSALS.

In an action of improbation, pursued by the Bishop of the Isles, against his Vassals; Alleged for the Sheriff of Bute, That he was not lawfully summoned in the first summons, it being made at his house in Bute, he being in the meantime, and two years before, at the school of Leith; which was offered to be instantly proven at the bar. The Lords would not receive this exception of *alibi*, notwithstanding; but sustained the citation, in respect that he was personally summoned in the second summons, and that he could not receive great prejudice thereby, seeing he was to get diets with the rest of the defenders for production of his writs.

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1629. *March 10.* MARGARET NISBET *against* JOHN CRAWFORD.

JOHN Crawford being obliged to John Craig and Margaret Nisbet, his spouse, and the longest liver of them two, in the sum of 5000 merks, Margaret registrates this bond after her husband's decease, and charges John Crawford. He suspended, Alleging, That it behoved to be pursued by way of action, it falling under her husband's testament, and so appertaining to his executors. Answered, That she was executrix, and the sum was confirmed in testament, whereby she had right to it that way also; and the suspender was not prejudged, seeing her discharge would liberate him at all hands. The Lords sustained the charge, although it should have been sought by way of action.

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1629. *March 12.* The GOODMAN of COUMSLY *against* The EARL of ROXBURGH.

The Goodman of Coumsly charged the Earl of Roxburgh to enter him to the lands of Smailholm that he had comprised from Coldingknows. He suspended, because that Coldingknows was never infeft. Answered, The Earl could not be heard to allege that; because he had disponed Coldingknows's life-rent-escheat of the same lands, whereupon the donator had obtained a declarator, in which he was acknowledged to be proprietor of the same lands; so that he could not now deny that he was infeft. The Lords, notwithstanding, found the reason of suspension relevant.

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