

sister, against Mr Roger Mowat, and some others, her executors, the defenders would have given him an assignation to a decret against the town of Edinburgh, who had meddled with a great sum of money belonging to the defunct the time of her decease. But the Lords found, That the executors behoved to discuss the defunct her debtor, who had suspended.

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1649. June 28. CHRISTOPHER SPENCE *against* ALEXANDER SKIRVING.

IN the suspension at the instance of Christopher Spence, or reduction of a decree given against his wife and himself *pro interesse*, in favours of Alexander Skirving, spouse to umquhile Helen Sinclar, sister to the said Christopher his wife,—he craved suspension or reduction upon this reason, amongst others, that he was only decerned *pro interesse*, which had now ceased, she being dead. The Lords would have it heard in their presence; saving, that the party offered to prove, that he had intromitted himself, *et sic in rem versam*: for the umquhile Earl of Haddingtoun purchased himself free of all decreets obtained against his lady and himself *pro interesse*; because, from their marriage, he never meddled with any thing belonging to her, but she had *liberam administrandi res suas facultatem*.

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1649. June 28. DAVID GRAY *against* JEAN OGILVIE.

IN the suspension at David Gray his instance against Jean Ogilvie, upon a bond of a liquid sum, without condition expressed therein; the Lords,—in respect of a reason dipping upon David Gray his back bond, to umquhile Captain Gray, her spouse, who had deponed the money in David his hand,—thought good to try if the charger could have any more nor a third of that sum, and that the two part might be employed to the use of the children, seeing she was to marry another husband; they being *communis patriæ parentes*. And here it was also alleged, That there was some arrestment used by a creditor of the father. Likeas, the 4th of July, they ordained caution to be found to the minors, and would not receive her oath hereanent

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1649. June 28. JOHN MUIREHEAD *against* JOHN POLCKE.

IN the action of maills and duties pursued by John Murehead against John Polcke, his tenant, who suspends, That he could not pay, because his master plundered him, accompanied with a number of soldiers, about the time of the wicked engagement, and left him nothing; whereupon he had spuilie depending; and is the more odious, that he offers him to prove, that it was done upon a