

1649. *July 10.*WRIGHT *against* OGILVIE.

IN the action, Wright against Ogilvie, the incident protested for was cut short, because raised the last of June, and the day of compearance the first of July, and yet the incident not executed while the third, upon sixty days.

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1649. *July 10.* JAMES FOULTOUNE *against* JEAN LYELL and ROBERT HOG.

IN the suspension of double pointing by James Foultoune against Jean Lyell and Robert Hog, who had obtained decret against him for his maill, the apparent heir, Noble, would have compeared, Because the charger kept up his predecessor's writs, and so hindered him to be served. Likewise, Arthur, who had comprised the lands from him, would have had up the maill, but it was of years preceding his comprising. Lastly, The suspender alleged the charger had no right thereto, but had come in possession by virtue of some liferenter, who was dead. Yet, in burghs, it is common, that, in actions of removing, and for maills and duties, it is sufficient to reply, or libel, that I set you that land, and you took it off me, and have paid me maill and duty; and you cannot object that I have no right, *nec potes meam possessionem invertere, tu, qui es meus inquilinus, et ædes a me conduxisti.*

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1649. *July 10.* The LAIRD of EGLE *against* The LADY.

IN the suspension by the Laird of Egle against the Lady, the Lords would have the money consigned; and, not giving answer to the reason of suspension, founded upon articles of arbitrament, conform to a bond for submitting all controversies that should arise during the Lady her lifetime, to certain friends; they found that the exhibition at the Laird his instance would be insisted on, for clearing all doubts.

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1649. *July 11.* CHRISTIAN DAVIE and JAMES ——— *against* JAMES WRIGHT.

IN the suspension by Christian Davie and James ——— against James Wright, the reason was alleged against the decret, That the said Davie could not be summoned to give her oath for the maill libelled, because her husband was never summoned, but was out of the country. To the which it was answered, That the marriage had intervened since the intention of the process; by the which it was referred to her oath; and the changing of her estate by marriage *non debet mutare judicium.* The Lords desired to try the date of the summons and liti-contestation.

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