

*functi hæreditatem*: for else that restriction anent personal execution were superfluously *et inutiliter adjecta*. Neither were it yet justly adjected, except her minority, the time of the renunciation, were proven;—so that all the former dispute anent her collusion with my Lord Cranstoune, (which is clear by his employing of the advocates, and preferring or retarding her processes *respectivè*,) ought to come in when the dispute shall be betwixt my Lord Cranstoune and Alexander Dowglas.

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1649. November 29. LUMSDENE of BLENERNE *against* PATRICK MAER.

IN the suspension at Lumsdene of Blenerne his instance, against Mr Patrick Maer, charging upon a bond of relief given to George Stewart and assigned by him to the said Mr Patrick; for not representing the said Mr Patrick his debtor, taken by caption; the said George having given his bond to represent him *cum omni causa*, within a month; and the former bond having been given to the said George, for his relief: the letters were found orderly proceeded against the said Lumsdene; and also in the first bond against the said George, notwithstanding the reason that he was represented *debito tempore*, because not intimated to the said Mr Patrick.—*See page 424.*

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1649. November 29. JOHN BROWNE *against* JOHN AKEMAN.

THE exception of John Browne against John Akeman, pursuing for a tack-duty of money, *viz.* That he offered to prove victual delivered in satisfaction thereof, and counts betwixt them heard before honest men, was thought to be relevant to be proven by honest witnesses; against the common rule,—That writ can be taken away but by writ, or oath of party,—as hath been oftentimes decided in the contrary. Yet the Lords, before answering, would, *ex officio*, examine the said witnesses.

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1649. November 29. CRAIGE-COOKE *against* BROADFOOTE.

IN the suspension of multiplepointing of a decret of removing, suspended also of before, by Craige-Cooke against Broadfoote, the Lords thought it malicious, because the said suspender having taken of him, although *verbo*, (as use is within the town of Edinburgh,) he could not invert his master's possession, to bring in suppose true creditors, who had comprised. And farther, was alleged, That Broadfoote his right proceeded of a disposition made by a bankrupt to his daughter, which, by the Act of Parliament 1621, is null, *ope exceptionis*. And, for his fraudulent dealing, the Lords ordained the said tenant to pay £40.

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