

1649. *December 15.* SIR DAVID MURRAY *against* ALEXANDER TROTTER and PATRICK TWEEDIE.

IN the suspension, Sir David Murray against Mr Alexander Trotter, minister of the new kirk of Twedmoore, and Patrick Tweedie, for temporal lands designed in a glebe ;—the reason, That there were Temple or St John's lands in the parish, was answered, That these were not kirk-lands ; the knights of St John's Hospital at Jerusalem, with their preceptor, being secular men. Whereto it was replied That they were under the vow of chastity, and those lands were excepted in the Act of Annexation, *et exceptio firmit regulam* ; likeas in the Act anent Surrenders, at least, the king's agreement with my Lord Torphichen, they are all surrendered as kirk-lands,—the parish of Torphichen being excepted. But the Lords would hear it in their own presence.

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1649. *December 15.* CLAXTOUNE and WALDOUN *against* WILLIAM ARNOT.

IN the action Claxtoun and Waldoun, Londoners, against William Arnot, executor to umquhile George, his brother, whereby not only threescore pounds sterling [were] obliged to be paid, but also other threescore pounds, in respect the narrative of the foresaid bond carried the same to have been payable by virtue of another bond, which was alleged to have been lost ;—the Lords found it hard, and so ordained them to dispute what they could hereanent, and produce a process intended before the sheriff of Edinburgh against the said George in his lifetime, wherein it was alleged to have been recorded that the said George postponed to give his oath.

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1649. *December 15.* BALMANNO and CHAPMAN *against* LITTLEJOHNE.

IN the suspension, Balmanno and Chapman against Littlejohnne, of a decret at Donald Murray's instance, for heirship-goods belonging to his sister, who died barren, and infert in lands as of fee, suppose before her husband ; the reason was, That there could not be two heirships in one house ; likeas, a wife's testament, deceasing before her husband, bears that the husband's heirship being deduced, the rest of the husband's moveables are estimated to such a sum usually, whereof the wife's executors have third or half, according to the division contained in the testament, and not *ipsa corpora*. And albeit every particular spece were contained therein, it would ofttimes come to the division of a certain body spece betwixt her executor and the husband ; which could not produce heirship. The charger answered, That he opposed his decret, wherein there is no such difficulty, since the wife's heirship that is in question hath been out of the communion of goods with her husband, who had