

their own presence, in favours of the good-daughter and her contract of her marriage ; and they thought that the confirmation might be drawn back. But, what benefit can it work but only for the superiority ? seeing the said umquhile James, being nearest kinsman to the defunct, that was proprietor of the lands, might retour himself heir, and dispone that supervenient right to any man, without doing prejudice to them who had right to the superiority.

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1650. *January 2.* LOCKARD *against* JAMES BROWNE.

IN the action of reduction at Lockard his instance, *super capite inhibitionis*, for one poor 100 merks, against James Browne, cordiner, for reducing of his infestment, flowing by progress from umquhile Edward Johnstoune ; against whom decret was obtained, *jure mariti*, and against his wife, the debtor principal ; the same decret having been suspended by the said Edward and his wife, and the letters found orderly proceeded ;—the Lords would hear it *in præsentia*, as if it were coincident with that of Scot of Hartwoodmyres, and did concern all husbands called for their interest in any process : suppose it doth not, as I think ; because, in this case, *res transiit in rem judicatam*, not only in the first decret, but also in the decret upon the suspension, where the said umquhile Edward was principal suspender.

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1650. *January 3.* GRAHAME *against* The EARL of ANNANDALE.

IN the action of exhibition at Grahame's instance against the Earl of Annandale, the exception was sustained, That there could be no charter-chest of the writs of the lands of Bl—wood, comprised from them, exhibited by the defender, seeing the reversion of the comprising was long ago expired ; but, as for any other writs that did concern them, the said Earl was ready to exhibit them upon oath.

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1650. *January 3.* ADAM GALT *against* JEAN NICOLL.

IN the suspension Adam Galt against Jean Nicoll, who had given 500 merks upon the wadset of his lands, with a back-bond for payment of 40 merks yearly,—the reason was repelled as irrelevant, bearing, That the suspender had a back-tack set to him for terms to run, the time of the warning, whereupon the decret of removing now craved to be suspended was obtained by the charger ;—who then replied, That the said back-tack contained an irritant clause, that, *viz.* if three terms ran in the fourth unpaid, the said back-tack should expire without any declarator ; and if it did bide any, the same should be done before the bailies