

orative thereof, as aughting by another bond, which should have been paid before this, which was alleged to have been lost or miscarried coming from London by packet to Robert Ingles, and therefore action had been intented before the sheriff of Edinburgh *in anno* 1645; referring the same to the said George his oath: which he essonyied to give, upon that, That the procuratory was but general, and he had no special power to refer it to oath, if perchance the foresaid bond might come again into the hands of Waldo. The Lords thought fit, before answer, to try Robert Ingles, the executor himself, Mr John Gilmour, procurator for the said George, and also George Arnot, Waldo, and his copartner, their books of accounts.

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1650. *January* 8. FRASER *against* GRANT OF BALLANDALLOCH.

IN the action of suspension, Fraser, minister, *against* Grant of Ballandalloch, the bond charged upon,—being for bygone maintenance, suppose he alleged, Extorted through fear of plundering,—was found to be *debitum fundi*.

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1650. *January* 9. DR KINCADE *against* \_\_\_\_\_.

IN the action between umquhile Dr Kincade his heir of line, for his heirship goods, and the Laird of Coekburne, his executor, anent the best book amongst his books; question being made, the Lords found, That the whole works of an author named Aldromaldus, contained in sundry volumes, behoved to be esteemed the best book; as if *corpus juris* were sought, or the great Bible in sundry volumes, containing all languages, or the works of Suarez, or sicklike.

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1650. *January* 9. KNOLLES *against* The LAIRD OF SMETOUNE.

IN the exhibition pursued by Knolles against the Laird of Smetoune,—notwithstanding the writs exhibited according to the inventory subscribed by their predecessors, to whom they were charged to enter heir, and the contract of marriage craved to be registrate against them; notwithstanding the laird's oath given, the Lords found, That the lady behoved to give hers also, and to give a commission for that effect.

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1650. *January* 9. SMETOUNE RICHIESONE *against* ROBERT.

IN the suspension by Smetoune Richiesone against Robert, some time his tu-

tor,—in respect that the said Robert took up his charge, and did not insist, the Lords proceeded to suspend the letters *simpliciter*; the said laird, suspender, verifying his reason upon the decret of accounts, wherein much more was remitted to him, and 2000 merks of that which was due, gifted to him and forgiven; which far exceeded his two bee-skapes and a midden, whereupon this decret was obtained before the bailies of Musselburgh.

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1650. *January 9.* The LAIRD of RENTONE *against* MR THOMAS WOULFE.

IN the suspension pursued by the Laird of Rentone against Mr Thomas Woulfe, assignee constituted by Mr George Reull, to one thousand merks, aughting by the said Laird to the said umquhile Mr George; the reason was, Compensation; that the said Laird had assignation from his brother George, who was assignee constituted by Janet Crabb, relict of umquhile John Rentoune of Lamertoune, by whose contract of marriage the said John is debtor to the said Janet in £1000, to be paid after his decease, failyieing of children, and likewise in 300 merks by year; and true it is that the umquhile Mr George was executor to the said umquhile John Rentoune, debtor; likeas his cedent, Mr George, having charged the said Laird of Rentone, suspender, he had suspended him also in his lifetime; and also that Mr George was debtor to the said Janet in the half or third of the moveables *jure relictæ*, and he is ready to compensate for any of these sums foresaid. But the Lords found no compensation: because all compensation is *de liquido in liquidum*; and, suppose sums may seem to be liquid, yet the Laird of Rentone did never constitute the said Mr George his debtor, no not so much as by intention of any process against him, as executor, which is but *nudum officium*, and may have many exceptions to oppone to the pursuit.

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1650. *January 9.* WILLIAM MOODIE *against* HAMILTONE and MAKENES.

IN the reduction of William Moodie against Hamiltone and Makenes,—the Lords found the decret,—having three conclusions, for the maills, for removing, and for declarator of the property, in respect a prior comprising was fully satisfied within the seven years,—to have been, by all kind of order, not only libelled by the writer, but also contrary to form of process given out by the clerk; and writer and clerk reprobable as ignorants, not taking heed to the style of the court; suppose there was no compearance; and so reduced the said decret.

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1650. *January 9.* ALLAN CARTH CART OF WEDDERHEAD *against* —.

IN the action of special declarator for nonentry of lands holden of the king