

or prince, at the instance of Allan Carthcart of Wedderhead;—it was excepted against the general declarator, That all parties having interest were not called, *viz.* the Laird of Ardmillane, who was *in tenemento* from the Laird of Carintoun. To the which it was replied, That the King's donatar needed not to call any except him, who represented the King's immediate tenant, who was the Laird of Carintoun; and he is called *per expressum*; and it is enough that the rest have been called generally at the market-cross, with all having interest. Which the Lords sustained. And, as to the rest, that the donatar could only have some subsequent [terms] to the gift, it was replied, That it was *jus tertii*, and that his Majesty's advocate would concur, whose interest it was.

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1650. *January 10.* KINNAIRDE OF COWBINE *against* DUMBAR OF GRANGEHILL.

IN the suspension raised by Kinnairde of Cowbine against a decret of 500 merks obtained by Dumbar of Grangehill, before the commissary of Murray, confessed in umquhile Isobell Falconer his mother's testament testamentar;—the Lords did sustain the reason, which was, that the charger could not have that decret by virtue of the testament, which he had reduced himself before the commissaries of Edinburgh, although the suspender had confirmed the same without protestation. But they ordained Cowbine's oath to be taken upon that sum, if he was owing it to his mother.

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1650. *January 10.* JOHN LINDSAY *against* JOHN PEARSONE and OTHERS.

IN the suspension by John Lindsay against John Pearstone and others,—the Lords found the letters orderly proceeded, notwithstanding minority alleged even by way of reduction; because they offered them to prove, that the suspender was married, and vented wine in his house, and sold a part thereof to his good-mother: neither, being a merchant, could he obtrude minority; as was decerned against Agnes Short, cramer, married thereafter to John Cuthbertsone, gardener to my Lord Angus.

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1650. *January 10.* HENDERSONE *against* PATRICK SPENCE.

IN the suspension at Hendersone's instance against Patrick Spence, charging for four years' tack-duty of a tenement of land,—the reason is, that the letters must be suspended for the half; because, by the said Patrick his contract of marriage with umquhile Elizabeth Hendersone, it is agreed that the half of their moveable goods shall pertain to either of them their heirs and executors; which contract is produced. As also, the said umquhile Elizabeth hath nominated the suspender her executor, who likewise hath urged the charger, before the commis-

saries of Edinburgh, for giving up inventory, and hath obtained decret for that effect against him, being the husband ; so that *per eum stat* that the testament is not confirmed, and so things not made liquid, through his own default.

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1650. *January 10.* The EARL of ROXBURGHE *against* his TENANTS of MAZENDUE.

IN the action of removing pursued by the Earl of Roxburghe against his tenants of Mazendue, which is the hospital of Jedburgh ;—the presbytery thereof, admitted for their interest, did propone upon the Acts of Parliament anent hospitals, That the chancellor and bishops, in whose place the presbytery has succeeded, should visit all such religious houses, to see there be no dilapidation nor wrong usage of the mails and duties appertaining thereto. The which the Lords did not respect in this judgment possessory ; reserving what could be said against the pursuer and his rights, *in petitorio*.

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1650. *January 10.* GEORGE LOGANE *against* ALEXANDER WALLACE.

IN the suspension by George Logane against Alexander Wallace, charging for 1000 merks upon bond ; the reason founded upon many bolls of meal and oats resting aughting by the charger to the suspender, was found relevant to be proven by witnesses, even against writ : since the same Wallace, charger, had confessed, in a pursuit at James Scot of Montros his instance, for certain victual, that he was aughting this victual to the suspender : suppose the confession was not subscribed by him, but by the clerk of the court of Striveling, as it were by way of instrument ; and so might be a great adminicle, suppose not a sufficient probation.

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1650. *January 10.* The EARL of HOME *against* BRUNTFEILD.

IN the suspension, Earl of Home against Bruntfeild, who had obtained decret of removing against the Earl, before the Sheriff of Berwick, *in foro contradictorio*, being infest upon the Earl's refusal, who was charged by precepts out of the chancellary, by the Sheriff of Berwick, the King's officer, the Earl having lost, for that time, the superiority ;—the Lords condemned the suspender in £40 of expenses, and would have put him into far more, in respect of the great charges that Bruntfeild has been put to, first and last.

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