

position from umquhile John Kincade, in Gogar, who had infest his father,—urged, upon the disposition, Robert Kincade lawfully charged to enter heir to his father, to enter himself to the superiority, that he, being retoured specially, might hold of him; as also, craves it to be declared against the Laird of Hal-toune, that he ought to hold of him, superior to the said Robert, who was to lose the superiority, if he did not enter. And this is the order in such a case, when the immediate superior is not entered himself; since the special retour should bear of whom holden, that the precepts of the Chancellery may proceed thereon.

Page 170.

---

1650. January 16. MAKCALA against SCOT.

IN the pursuit, Makcala against Scot, the reason of suspension proponed by Scot, That she was clad with a husband when she gave the bond,—was repelled as irrelevant; because it was offered to be proven that her husband was separated from her, and she had pursued sundry actions without his concurrence, wherein she had prevailed. And this maxim of law,—That a woman clad with a husband cannot be bound,—obtains only where her husband may suffer prejudice if she should contract debt; or, if she herself should be prejudged by subscribing of bonds with her husband, *reverentia maritali*.

Page 170.

---

1650. January 16. The EARL of PANMURE against SIR DAVID CUNINGHAME.

THE Earl of Panmure, pursuing Sir David Cuninghame, dwelling in England;—it was urged by the defender, That it might be expressed in the decret, that the same should have only execution against the defender's goods in Scotland. Which the Lords found not necessary to be adjected, since the decret obtained in Scotland could have no execution *extra territorium*; but that could not hinder the said Earl to seek his own, by virtue of the bond foresaid, either through real or personal execution, as the Judge there should find meet, after the production of the bond.

Page 171.

---

1650. January 16. The COLHEUGHERS of CARNETYNE against CHARLES POLLOCKE.

IN the suspension at the instance of the Colheughers of Carnetyne against Charles Pollocke, who had charged them, upon a decret before the Lords, by the which they were ordained to return to their work, reserving *hinc inde*, for damage and interest;—the reason, That they, being poor men, and many in family, were necessitated, as destitute of work and wages, to provide for them-