

tutors, &c. to hear and see himself decerned to make payment of the said sum of money. For verifying of his summons, he produced the bond, contract of wadset, [and] assignation; with the contract of marriage, containing a translation; *item*, the letters of charge to enter heir, with their executions. Who failyieing to compear, the Lords decerned this pursuer to have good right to crave the said sum, and therefore decerned them to make payment to him thereof.

*Act.* Norvell. It's in absence.

*Signet MS. No. 13. folio 5.*

1663. *December 2.* ALEXANDER MEINZIES *against* — GORDON and ALEXANDER GORDON of Birsmoir.

GEORGE, Marquis of Huntly, Earl of ———, Lord Gordon and Badenoch, as principal; Patrick Gordon of Birsmoir, as cautioner; by their bond, *in anno* 1624, bind themselves to Jo. Urquhart of Cairnebroche, and failyieing of him by decease, to Thomas Meinzies of Balgounie, in the sum of 8000 merks. Thomas Meinzies acquiring right to the said bond, assigns and dispones the same, *in anno* 1642, to Alexander Meinzies, burgess in Aberdein; who, *in anno* 1655, before Thomas Gordon Sheriff-depute of Aberdein, the suits being called, and the Court lawfully fenced and begun, obtains decret of transferring against — Gordon, son to Lodovick Gordon, as heir, oy, or prenevoy, to the deceased George, Marquis of Huntly, principal debtor in the bond; and Alexander Gordon of Birsmoir, apparent heir to his father, cautioner therein: who as either having served themselves heirs to their predecessors, or behaved themselves as heirs to them, or are successors *titulo lucrativo post contractum debitum*, or intromitters with their goods and gear, or executors; at the least, as lawfully charged to enter heirs to them within forty days; by reason of one or other of the which titles, the Sheriff-depute found them liable for this debt, and decerned them to make payment of the same to the pursuer. Alexander Meinzies, who purchased this decret, dies; whereupon his children (one of them is married to Mr. Arthur Gordon, advocate, who compears in this cause,) crave the same to be transferred over upon them *activè*. Which the Lords following, then sitting, *id est*, Sir Jo. Gilmor of Craigmillar, *President*, Sir Archibald Primros of Chester, *C. R.* Alexander Lo. Halkerton, Sir James Lockhart of Lee, Sir Archibald Stirling of Carden, Sir James Foulls of Colinton, Robert Nairne of Straffurd, Jo. Scougall of Whyte-Kirk, Andrew Ayton of Kinglassie, David Nevoy of Reddie, and Sir Jo. Hume of Renton; by their decret, granted.

*Act.* Mr. Arthur Gordon.

*Signet MS. No. 14. folio 5.*

1663. *December 2.* JOHN BEG *against* BROWNE of Fordell.

MARGARET ADAMSONE, by her bonds under her hand, granted her, *in annis* 1642, 1643, 1644, 1645, to have borrowed at sundry times, for performing sundry her necessary affairs, from Helen Beg, 980 merks, with the usual annualrent there-

of. The said Margaret Adamsone marrying Jo. Browne of Fordell, bears to him William and Sir Jo. William, *in anno* 1646, with consent of his curators, in corroboration of his mother's bonds, binds and obliges himself to pay the said sum to the said Helen Beg. After the granting of this his bond of corroboration, William dies. Sir Jo. Browne succeeds him, as also to the estate of Fordell. Sir John being killed, there is a son called John, that succeeds him. In the mean while, Helen Beg dies. Her brother Jo. Beg, in Nether Cramond, confirms her testament, *in anno* 1650, and gets himself nominated her executor dative; and so on that title charges the said John Browne to enter heir to his father, Sir John, *in anno* 1653. This John dies, whereon his sister Antonia Browne becomes heretrix of all. Now he charges her to make payment to him of the said sum of 980 merks contained in the bond of corroboration granted by William Browne, her uncle on the father's side, and that as heir to her brother, who was again heir to their father, Sir John, who again succeeded to his brother William, who by his bond of corroboration obliged him to pay that debt of his mother, M. Adamsone. For proving of the summons, there is produced the bond of corroboration; Helen Beg's testament confirmed, under the subscription of James Wright clerk to the commissariat of Edinburgh, wherein this debt is also confirmed; *item* the letters of charge to enter heir, executed against her brother.

ALLEGED for the defender, that no process can be granted on this bond of corroboration, unless the four principal bonds thereby corroborated, were produced.

ANSWERED, that process must be granted upon the said bond, without necessity to produce the bonds corroborated; unless the defender offer her to prove that the said bonds were paid or discharged.

REPLIED, that notwithstanding of this answer, the former allegiance of a necessity of production of the bonds corroborated stands relevant: seeing it is an unanswerable presumption that the said principal bonds, being satisfied, have been retired; only the bond of corroboration has been omitted to have been given up.

This allegiance and reply the Lords repelled, in respect of the answer thereto. Then ALLEGED by the defender, that the hail four bonds corroborated, are in the said Antonia Browne and her curators' hands, as cancelled and satisfied bonds. This the Lords found relevant, and assigned them a day for proving thereof, by production of them. Which they failyieing to do, the term is circumduced against them; and decret pronounced ordaining her to make payment to the pursuer, of the said sum.

*Act. Norvell. Alt. Mr. Laurence Oliphant and Mr. William Maxwell. J. A. Signet MS. No. 15, fol. 5.*

1663. *December 3.* ELIZABETH COLVILL, and WILLIAM DALGLEISH'S BAIRNS, *against* The EARL of CASSILLS.

JOHN, Earl of Cassills, *in anno* 1649, grants him, by his bond, to have borrowed from Mr. William Dalgleish, Minister at Cramond, the sum of 6000 merks; which he obliges him to restore, with the ordinary [annualrent,] and 600 merks of penalty.