

1627. *March 13.* JAMES MACKGIE *against* GEORGE LEVINGSTON.

JAMES Mackgie pursued his tenants for their mails and duties of the Whitsunday's term 1626. Compeared George Levingston, and alleged they appertained to him, by virtue of a comprising led by him, against the pursuer, of the same lands. Replied, That his comprising was after Whitsunday, and so he had no right to the mails owing before. Duplied, That he had comprised all right standing in James Mackgie's person the time of his comprising, which behoved to include the duties owing to him by the tenants. The Lords repelled the exception in respect of the reply, and thought a compriser could have no right to bygone mails; but that he should poind them, and not claim them by his comprising.

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1627. *March 15.* LAWRENCE CRAWFORD *against* MALCOLM CRAWFORD.

Lawrence Crawford sought letters conform, upon a presentation given to him of the chaplainry of Jordanhill, by the Laird of Kilbirny, patron thereof. Excepted by Malcolm Crawford, That there was another who was in possession thereof, *per decennium et triennium*, and that by gift of old Kilbirny, this laird's father, and to whom he was heir; which chaplain had set tack to him of his lands, by virtue whereof he had good right to exclude the pursuer from getting of his desire. The Lords repelled the exception, and thought it could not hinder him to get letters conform, especially the other titular not compearing; but that it would be relevant when this pursuer intended action for the duties upon his provision.

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1627. *March 16.* JOHN INGLIS *against* GILBERT KIRKWOOD.

JOHN Inglis pursued Gilbert Kirkwood for the spulyie of the teinds of Killeith. Alleged, That the summons could not be sustained against him, because he did not intromit with them at all, but had set both stock and teind to the tenants, who paid him a duty for all together. The Lords, notwithstanding, repelled the exception, because they thought he might be convened at the first for the spulyie, seeing the tenants would have their relief against him, if they were first decerned.

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1627. *March 16.* N————— *against* FRIER CASSIE.

In a summons for multures, pursued by N. against Frier Cassie, the Lords

would not sustain libel bearing that there grew so many threaves, which extended to so much multure ; but ordained him to mend it thus :—That so many threaves grew upon the ground, extending to so many bolls, which bolls should pay so much multure.

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1627. *March 20.*

VAUS *against* BROWN.

VAUS pursued Brown for spoliation of four horses. Answered, That he had lawfully pinded them upon a decret obtained upon a registrate bond of 500 merks against the pursuer. Replied, That he offered him to prove that the whole 500 merks was paid before, whereupon he would show writ for 420; and offered to prove payment of the 80 merks resting, by witnesses. Which was not sustained but by writ or oath of party, in respect of the decret preceding, and that it would infer a spulyie.

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1627. *March 20.* The LAIRD of HALLERTON *against* His WIFE.

The Lords of Session may not suspend any decret given by the Lords of Privy Council, neither are judges competent thereto. But the Lords of Privy Council themselves are only judges to all controversies and debates arising upon any decret given by themselves, *Bal. 16. 12.* According hereto, *3d March, 1584,* The tutor of Cassils having obtained a suspension of a decret given against him by the Lords of Privy Council, they, notwithstanding thereof, ordained their decret to be put to further execution, and discharged the Lords of Session to proceed to the discussing of the said suspension ; which they did annul and discharge in all time thereafter.

This same question bred some jar between the Lords of Privy Council and the Lords of Session, about a suspension granted by the Lords of Session to the Laird of Halkerton, younger, of a decret-arbitral pronounced by the Lords of Privy Council, between him and his wife, which decret he had obtained suspended upon alleged informality, and that they had proceeded *ultra vires compromissi.* But the matter was taken away without noise, he passing from his first suspension, and getting another from the Lords of Privy Council.

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1627. *March 24.* JAMES MONTEITH *against* The LAIRD of CARSE.

Mr James Monteith having got a bond of 20,000 merks of his brother, the Laird of Carse, charged him to enter heir to his father in such lands, that he might have execution upon his bond, by comprising the said lands, conform to the Act of Parliament 1621. The Laird offering to renounce, it was contro-