

ing decerned executor-dative to the deceased Agnes Milliken, spouse to Robert Gamble ; convenes the said Robert, as intromitter with the goods and gear of his defunct spouse, before the commissary of Glasgow, his brother, to hear and see the said Robert decerned to make payment to him, as executor-dative decerned, of the goods and gear pertaining to the defunct. The said Robert Gamble craves this action to be advocated, by reason the commissary could not be judge in his brother's cause. It was answered, That he was pursuer only *ratione officii*, as procurator-fiscal, and that this pursuit was no ways to the behoof of James Boyle, but to the behoof of the bairns and nearest of kin to the defunct. The Lords granted the advocacy, and thought it not fit that this action should be pursued, in the pursuer's own name, before his brother, but that he should have some person in his place.

*2d MS. Page 13.*

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1629. *January 12.* CARMICHAEL *against* LAIRD of KINCRAIG.

MR Frederick Carmichael pursues the Laird of Kincaig, as lawfully charged to enter heir, to hear and see his goodsir's bond registered. The apparent heir produces a renunciation, subscribed by him and his tutor, which the pursuer is content to accept, that he might proceed to his adjudication. Compears some others of Kincaig's creditors, and, being admitted for their interests, alleged, That the renunciation could not be received, because the act of curatory was not produced ; and that though Mr Frederick would be content to accept the same upon his own peril, that he might not do it to their prejudice, and thereby prevent them, who were con-creditors, by his prior diligence. The Lords repelled the allegiance.

*2d MS. Page 2.*

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1629. *January 17.* ROBERT KER *against* MR ALEXANDER HAMILTON of KINGLASSIE.

DECREETS will sometimes be suspended, and the reasons sustained, by way of exception, without reduction, if the reasons be instantly verified, for eschewing the multiplication of pleas, albeit the parties be not poor folks.

*Page 56.*

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1629. *March 12.* HAMILTON of CARLOURIE *against* His TENANTS.

A SUMMONS for removing, or else to find caution for payment of the duty of his tack, must be continued.

*2d MS. Page 226.*