

the wadset charter and seasine given [by] Boswell's authors to Cuninghame; *quia nemo tenetur edere instrumenta ad fundandam contra se actionem*; but, in respect this pursuit was to the behoof of my Lord Scotstarvet, the Lords would hear it in their own presence.

*Page 42.*

1649. *July 6.* MACKEANE *against* CREDITORS of The LAIRD of BARNES.

IN the action, Mackeane against some other creditors of Laird of Barnes, it was sustained for the pursuer, That he had the prior right, and the keys delivered to him, whereof he gave one to one servant, and another to another servant, and that one of them, colluding with the defender, the other kept fast, so that the defender most violently broke up the doors.

*Page 43.*

1649. *July 6.* GRAY'S BAIRNS *against* JEAN KENNEDIE.

IN the action at the instance of Gray his Bairns against Jean Kennedie, for a legacy left to them by their uncle, Lieutenant Colonel Bell, of 500 merks, the pursuit was sustained, notwithstanding the exception upon the alternative, either 500 merks, or the superplus of 3000 merks, resting owing to the defunct by George Suitie, whereof nothing was resting; because, in this case, *electio est legatarii*, for fulfilling of the defunct his will; the bairns being poor, and his sister's sons.

*Page 43.*

1649. *July 6.* ALEXANDER M———— *against* MARGARET GLEN.

IN the exhibition pursued by Alexander M———— against Margaret Glen, relict, the pupil and his tutor craved the bonds to be delivered to them. But the relict excepted for such whereof she had her liferent, that she would find caution to make them and the sums forthcoming to the heir. But the heir replied, That he would find caution to her for her liferent. The which the Lords sustained, and ordained delivery.

*Page 43.*

1649. *July 9.* WILLIAM FAIRLIE'S BAIRNS *against* The EARL of LAUTHIANE.

IN the process at the instance of umquhile William Fairlie his bairns against the Earl of Lauthiane, which hath depended ten or twelve years, in respect of the troubles; the Earl offered the principal sum. But, in respect it was informed that