

1649. *July 13.* SCOT of HARTWOODMYRES *against* MARGARET SCOT.

IN the suspension by Scot of Hartwoodmyres against Margaret Scot, his wife's only daughter of a former marriage, the eiked reason bearing, that the process must cease now against him ; because the decret in March 1637 was only against him *pro interesse*, which also was suspended by him the said year, and has lain over during the troubles, while, in the meantime, his wife is deceased ; and so the process against him must sist. Whereunto it was replied, That *res* was not *integra* ; and, not only a naked summons intented, but a decret obtained and suspended by a long space, it not being long since his wife died, and justice in the meantime, interrupted, or the party not able to go on. Which the Lords inclined to sustain ; but, as before in Skirving and Spence, would hear it in their own presence ; and, in the meantime, ordained them to go on in the rest of the reasons.

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1649. *July 14.* GEORGE RUTHERFOORD of FAIRNINGTOUNE *against* KERRES.

IN the removing at George Rutherfoord of Fairningtoun his instance, against Kerres, the exception was, that the lands controverted were a part of the defender his lands. To the which it was replied, That he offered him to prove, that they were parts and pertinents of the east part of Fairningtoun, severally kend from the kirk-lands ; likeas, the defender or his father had taken, in wadset, the same lands from this pursuer ; and, upon consignation of 1300 merks, has obtained declarator.

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1649. *July 14.* JOHN SHADE *against* MARGARET HAMILTOUNE.

IN the discussion of John Shade his suspension against Margaret Hamiltoun, it was much debated anent the delivery of the goods contained in the commissary's decret, and thereafter in several suspensions ; because he was ready to deliver those that he had, *viz. ipsa corpora* ; but that he could not be obliged for the whole contained in the commissary's decret, which was given against him and three others, seeing decreets are not given against parties conjunctly and severally, but according to ilk person his intromission ; which might be known best by the probation deduced before the commissaries decerned in the cause. And it was ridiculous to make any objection of vicious intromission, to make the defender liable for the defunct his debts, *ubi corpora requiruntur restituenda*.

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