

1649. *December 21.* BALVARDE *against* AUCHINLECKE.

IN a suspension, Balvarde against Auchinleck, the decret for heirship is sustained, because the defunct was a burges, wherein the custom of heirship-drawing is set down according to the roll in commissariat's or the town-clerk's books, where a yoke of oxen will be taken of seven, or of fewer ; *item*, a dozen of silver spoons ; but, if they be more or fewer, only one is due.

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1649. *December 21.* ALEXANDER ELEIS *against* JAMES LOCHE.

IN the suspension, Mr Alexander Eleis against James Loche, who had charged for 6000 merks ; the reason offered to be proven for this first part,—that he never borrowed any from the said James, but that it belonged to Janet Loche, spouse to Mr Nicoll Edward, and so to her husband *jure mariti*, for whom he had paid much more,—was not found relevant, but the letters decerned to be put to farther execution, for principal and penalty. Neither would the Lords have the said James burdened with production of an alleged backbond ; since the said Janet got this 6000 merks for quitting her infertment, that her husband's creditors might be satisfied.

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1649. *December 21.* The MASTER of FORBES *against* SIR WILLIAM DICKE.

IN the reduction of a bond granted by the Master of Forbes, as cautioner for his father, to Sir William Dicke ; the Master, being *in libello*, craved prelation to prove minority ; and the defender craved to be preferred, in fortification of his bond, and that majority was more affirmative. The Lords would hear a farther reasoning ; but the Master did not care much, providing the witnesses were honest men, so that his father, for whom he was alleged cautioner, and who might tine and win in the cause, was not admitted witness.

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1649. *December 25.* PINKILL, Younger, *against* The LORD BALCARRAS.

IN the pursuit of Pinkill, younger, as executor to his wife, who died within the year, against the Lord Balcarras, her brother, for £10,000, which was her provision, conditioned to her in a former bond which contained more provisions to her sister and brethren, all bearing mutual substitutions, in case of death ;—upon that, that the Lord Balcarras had obliged himself, by the contract of marriage of his sister, to pay the foresaid sum, in satisfaction for paying the former