

of Aire; so that, the same having been discussed before the said bailies, it needed no farther declarator. *Page 129.*

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1650. *January 3.* The LAIRD of EDMISTOUNE *against* ADAM MUSCHETT.

IN the suspension at the Laird of Edmistoune his instance against Adam Muschett, assignee constituted by Katherine Haggie, the reason was not found relevant, upon that, She had made umquhile Mr David Williamsone her assignee, and that he had obtained decreet against him, for some years bygone, of that annualrent payable to her during her lifetime; because the said Mr David his assignation was only for 700 or 800 merks, which might have been paid, and so his right was expired; likeas the suspender, since syne, hath paid to herself sundry years, upon sufficient warrandice; which she and her assignee yet offer.

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1650. *January 3.* MR ALEXANDER LISKE *against* PATONE.

IN the suspension of double pointing, Mr Alexander Liske and Patone, the said Liske alleged an infeftment in the year 1603, given by his father, reserving his own liferent; and Patone, being a creditor, alleged an infeftment given by the father in the year 1626, together with a ticket, dispensing with the said infeftment given by the superior, that the same should infer no recognition; but without his confirmation. (Where it is to be inquired, if the same infeftment was given to be holden of the superior, which would be public, if confirmed; but if it be base, it remains base, notwithstanding the superior's confirmation.) Then Liske alleges, That his father's possession being his while he lived, he, after his decease, obtains decreet of removing, which is civil possession: likeas, thereafter, he obtains also natural possession, by setting a tack to the tenant. Again, Patone alleged possession, by payment of the annualrent, and that Liske, as factor for his father, did pay him the same; and farther, that, in the year 1646, there being a double pointing raised by the tenants, Patone was ordained to be answered and obeyed. Whereunto Liske answered, That he did not compear in that decreet to produce his right: the which he produces now, and oppones the same together with his possession; likeas the said Patone has infeftment of other lands, which are able to pay him his annualrent.

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1650. *January 4.* FORBES of BALNAGASKE *against* FOULLERTOUNE of KINNABER.

[*See page 449.*]

IN Kinnaber and Aslowne their process, it was farther alleged, That although *debitor non præsumitur donare*, yet *debitor potest donare*: likeas it is offered to be proven, that the disposition whereupon the infeftment renounced did proceed, was