

lands of Middlethrid; *item*, for not delivering of the writs of the said lands: which condescence being made, the Lords assigned to the suspender a term against which he should upon oath deliver up to the charger the writs of the said lands; *item*, should purge the said infetment. And as to a valid right of the teinds, the suspender offering a registered contract betwixt the Earl of Errol and the suspender, containing a long tack of the teinds, the charger's advocate took the same up to see; which, after he had seen, having reproduced, he, upon certain reasons, refused to accept of the same as a valid right.

Whereupon the Lords, by their interlocutor, found the said contract did not satisfy the charge; and therefore assigned the suspender a day to produce a sufficient right to the said teinds, whereto he stood engaged by the disposition, with certification, &c. Which they failyieing to do, the term was circumduced against them; and the Lords found the letters orderly proceeded, aye and till the suspender should deliver to the charger a sufficient heritable right of the said teinds; *item*, should purge the said wadset; *item*, should deliver the evidents of the said lands, &c. conform as he stands obliged by the said disposition to the charger.

Suspender, Mr. Geo. M'Kenzie. *Alt.* Mr. David Thoires.

Signet MS. No. 20, folio 44.

1665. *January 27.* JO. LOGAN of Burncastle *against* The CREDITORS of JAMES LOGAN of Hills.

JAMES LOGAN of Hills, having been tutor to Jo. Logan of Burncastle, finds Jo. Logan of Ardmanoch, cautioner to his pupil's curators, that he should, after count and reckoning, make payment of what he should be found to have intromitted with of the estate of Burncastle; and for his cautioner's security, he grants him a bond of relief in 1656, obliging himself to keep him scaithless, and to purchase sufficient discharges from his pupil and his curators, to himself and his said cautioner. Ardmanoch being distressed upon his cautionry, he pursues Hills the principal, upon his bond of relief; and charges him with horning; who suffers himself to be denounced, and lays year and day thereat; whereupon his escheat falls. Burncastle, the pupil, takes the gift of it, and pursues a general declarator thereof. It was alleged, no declarator could be granted upon the said gift, because they offered them to prove that the bond, and sums therein contained, whereupon the same proceeds, were either satisfied, paid, or the charge suspended before the denunciation, and so null, and needed not to be reduced.

Which allegiance the Lords repelled, and would not admit to stop the general declarator; but finding the summons relevant, admitted the same to his probation, which he instantly verified by production of his gift, and horning registered, with the executions thereof. Whereupon the Lords gave forth their decret of declarator; reserving always to the defenders all their lawful defences in the special declarator to follow thereupon.

Act. King's Advocate, and Mr. T. Lermonth.
Thoires.

Alt. Mr. Robert Trotter and
Signet MS. No. 27, folio 45.