

1665. *January 28.* ROBERT JOHNSTON and Jo. COWAN *against* ADAM COLQUHON.

ADAM COLQUHON, in Littlesauchie, is addebted to Robert Johnston there, L.93. By another bond, he owes to the said Robert, and Jo. Cowan, equally betwixt them, L.120. Thir bonds they register, and raise letters of poiding and horning thereupon. Which charge he suspends, because, *1mo*, As to the L.93 [he] had accepted of Alexander Glass of Sauchie, for his debtor therein, who likewise had offered him payment of the said money, which (after he had once accepted of him as debtor) he refused: this he was content to prove by the said Robert, charger, his oath. As to the said L.120, the same is for his duty of the crop, 1644; which, upon a sufficient discharge or re-delivery of his bond, he is content to pay them betwixt and Candlemas next; which cannot be denied him, seeing its good payment when a tenant pays his master once in the year, according as victual can be sold, and a price got therefore. At the calling of the suspension, it was eiked, *1mo*, That the letters ought to be suspended as to the L.120, because he had consigned the same in Sir W. Bruce, clerk to the bills, his hands. *2do*, Because the chargers refused to accept of the said sum of L.93, therefore the letters must be suspended as to the penalty of L.20.

To which reasons it was ANSWERED for the charger; and to the first, that he was content the said letters should be suspended as to the sum consigned, providing the charger get warrant to uplift the same. To the second, wherein its alleged that the chargers accepted Sauchie for their debtor, and yet refused when he offered them payment, the same is only probable by the chargers, their oaths; who being examined thereupon deponed *negativè*.

Whereupon the Lords suspended the letters as to the sum consigned, ordaining the same to be given up to the charger; find the letters orderly proceeded as to the sums not consigned, aye and while they be paid. Suspend for L.10 of the penalty; find them orderly proceeded *quoad* the other L.10.

*Suspender*, Sir Robert Sinclair. *Alt.* Alexander Munro.

*Signet MS. No. 29, folio 46.*

---

1665. *January 28.* ROBERT HAY *against* ALEXANDER HOME of Blackburn.

WILLIAM HOME of Suinewood by his bond grants him to have borrowed from Thomas Hay, tailor in the Canongate, seven score pounds in 1624. This bond is registered in 1641; and assigned by the said Thomas to his son Robert Hay, also tailor, in 1654; who now pursues Alexander Home of Blackburn, as son and heir to the said William, granter of the bond, and upon the other passive titles.

It is ALLEGED for the defender, that no process can be sustained upon the extract of the bond, because the same was registered after the decease of the said William, granter thereof, whereunto no procurator could have consented for him, he being dead; and so the same extract cannot prove, neither ought to be respected till the principal be produced. Which allegiance the Lords having considered, they ordained by their interlocutor, the pursuer to condescend upon admi-