

suspender has no interest to propone the foresaid allegiance, seeing the pupil does not suspend; neither any warrant produced from the pupil.

All which being considered, the Lords find the letters orderly proceeded, ay and while the charge be obeyed.

*Suspender*, Sir Thomas Wallace, and James Abernethie. *Alt.* Mr. Thomas Lermonth.

*Signet MS. No. 52, folio 57.*

1665. *February 8.* GEORGE BAYNE *against* THOMAS HAMILTON.

JAMES LORD OGILVIE obliges him in 1659, to pay to Thomas Dewar in Dundee, 1000 merks. Thomas assigns Geo. Bayne, Merchant in Edinburgh, to this bond; whose wife, Elizabeth Colvill, knowing one Thomas Hamilton to be my Lord Ogilvie's Chamberlain, writes to him as *præposita negotiis mariti* in his absence, anent the 1000 merks addebted by my Lord. He by his missive in 1664, gives her a promise and assurance of payment at the next term. Upon this her husband Mr. Bayne pursues him to pay the same.

Its ALLEGED for the defender,—That neither is the letter directed to the pursuer, nor does it promise payment of the sum libelled to the pursuer.

To the which it was ANSWERED,—That it was, though directed to the pursuer's wife; and as to the promise opposed the missive.

The Lords decerned him to pay it, conform to his faithful promise, and missive letter in all points.

*Act.* Mr. Jo. Colvill. *Alt.* Mr. Thomas Baird.

*Signet MS. No. 54, folio 57.*

1665. *February 9.* AGNES ALEXANDER, Relict of THOMAS MARK, *against* THOMAS HADDOWAY.

AGNES ALEXANDER confirms herself executrix to Thomas Mark, wright in Wolmet, her spouse; and so pursues Thomas Haddoway before the Sheriff of Edinburgh, to redeliver to her a copper cauldron of twenty-four gallons, in as good case as the same was when he got it; or to pay 1001 merks as the price of it. The Sheriff decerns him to do it; whereupon she raises a precept, and causes charge him. He suspends the precept, *1mo*, because he is most unjustly decerned, seeing that Nicoll, brother, and cedent of the said cauldron to the pursuer's husband, being addebted to the suspender in L.65, &c. he pursued him before the Baron bailie of the Canongate, for the same. They decern Nicoll to pay it; by virtue of which decret, the suspender caused lawfully poind and apprise the said cauldron, as the instrument of poinding taken thereupon proves; after which, if Nicoll assigned the said cauldron to his brother Thomas, he knows not, but there was no intimation of any assignation made to him before the poinding. *2do*, Mr. Robert Scot, Sheriff-Clerk, behaved himself most partially and maliciously in this