

reason,) was lesion by granting that bond. ANSWERED, He can never pretend lesion, because it is offered to be proven that this debt was a debt owing by his father, (to whom he was heir,) and that there was a decret recovered against him at the cedent's instance, for payment of that debt as representing his father. REPLIED, That decret can prove nothing, because discharged by the cedent. DUPLIED, Cannot be heard, because if any such discharge be, the same was granted in contemplation of this bond now charged upon; and this I offer me to prove by the suspender, and those who were at that time his curators, their oaths. TRIPLIED, *Nulla modo relevat* by his curators' oaths to his prejudice; neither will he suffer them to depone.

They were to have the Lords' answer upon this if his curators should depone, yea or no.

*Act.* Dewar.

*Alt.* Suspender, Spotswood.

*Advocates' MS. No. 91, folio 84.*

1670. *July 23.*

MR. JAMES M'GILL *against* WATSONE.

THIS M'Gill having been minister at Largo in 1655, and having waired L.700 upon the reparation of his manse, there was a stent imposed, for reimbursement of thir expenses, upon the hail heritors of the parish, conform to the act of Parliament; and this defender refusing to pay his proportion thereof, viz. L.19, he was convened before the Sheriff of Fife to pay it, and decret was there recovered against him; which decret was suspended on this reason, that though the acts of Parliament allowed only a manse worth L.1000, yet that this charger had repaired and made the manse worth L.2000; and that the suspender was not cited to the imposing of that stent, as he should have been; and that neither at that time, nor for many years thereafter, he had no interest in that parish; and so this stent not being *debitum fundi* can never be sought of him, but the minister must have his relief of the then possessors of the land.

Thir reasons were repelled, because there was no reduction of the decret; neither would they supersede extract till the reduction should be ready, but reserved it as accords.

*Act.* Suspender, Trotter.

*Alt.* ———.

*Advocates' MS. No. 93, folio 84.*

1670. *July 23.*

ALEXANDER HAY *against* ALEXANDER HOME, Tailor.

HOME and his spouse having granted bond to Janet Geddes, kail-seller in Edinburgh; Home, two days before Janet her decease, *viis et modis* gets the bond; and being now pursued by Hay, who, as sister-son to Janet, is her executor, to pay that sum contained in the bond; he defends, that though he was once debtro to Janet in that sum, and for that effect granted this bond; yet the same being