

tor,—in respect that the said Robert took up his charge, and did not insist, the Lords proceeded to suspend the letters *simpliciter*; the said laird, suspender, verifying his reason upon the decret of accounts, wherein much more was remitted to him, and 2000 merks of that which was due, gifted to him and forgiven; which far exceeded his two bee-skapes and a midden, whereupon this decret was obtained before the bailies of Musselburgh.

Page 145.

---

1650. *January 9.* The LAIRD of RENTONE *against* MR THOMAS WOULFE.

IN the suspension pursued by the Laird of Rentone against Mr Thomas Woulfe, assignee constituted by Mr George Reull, to one thousand merks, aughting by the said Laird to the said umquhile Mr George; the reason was, Compensation; that the said Laird had assignation from his brother George, who was assignee constituted by Janet Crabb, relict of umquhile John Rentoune of Lamertoune, by whose contract of marriage the said John is debtor to the said Janet in £1000, to be paid after his decease, failyieing of children, and likewise in 300 merks by year; and true it is that the umquhile Mr George was executor to the said umquhile John Rentoune, debtor; likeas his cedent, Mr George, having charged the said Laird of Rentone, suspender, he had suspended him also in his lifetime; and also that Mr George was debtor to the said Janet in the half or third of the moveables *jure relictæ*, and he is ready to compensate for any of these sums foresaid. But the Lords found no compensation: because all compensation is *de liquido in liquidum*; and, suppose sums may seem to be liquid, yet the Laird of Rentone did never constitute the said Mr George his debtor, no not so much as by intention of any process against him, as executor, which is but *nudum officium*, and may have many exceptions to oppone to the pursuit.

Page 146.

---

1650. *January 9.* WILLIAM MOODIE *against* HAMILTONE and MAKENES.

IN the reduction of William Moodie against Hamiltone and Makenes,—the Lords found the decret,—having three conclusions, for the maills, for removing, and for declarator of the property, in respect a prior comprising was fully satisfied within the seven years,—to have been, by all kind of order, not only libelled by the writer, but also contrary to form of process given out by the clerk; and writer and clerk reprobable as ignorants, not taking heed to the style of the court; suppose there was no compearance; and so reduced the said decret.

Page 147.

---

1650. *January 9.* ALLAN CARTHART of WEDDERHEAD *against* —.

IN the action of special declarator for nonentry of lands holden of the king

or prince, at the instance of Allan Carthcart of Wedderhead;—it was excepted against the general declarator, That all parties having interest were not called, *viz.* the Laird of Ardmillane, who was *in tenemento* from the Laird of Carintoun. To the which it was replied, That the King's donatar needed not to call any except him, who represented the King's immediate tenant, who was the Laird of Carintoun; and he is called *per expressum*; and it is enough that the rest have been called generally at the market-cross, with all having interest. Which the Lords sustained. And, as to the rest, that the donatar could only have some subsequent [terms] to the gift, it was replied, That it was *jus tertii*, and that his Majesty's advocate would concur, whose interest it was.

Page 147.

---

1650. *January 10.* KINNAIRDE OF COWBINE *against* DUMBAR OF GRANGEHILL.

IN the suspension raised by Kinnairde of Cowbine against a decret of 500 merks obtained by Dumbar of Grangehill, before the commissary of Murray, confessed in umquhile Isobell Falconer his mother's testament testamentar;—the Lords did sustain the reason, which was, that the charger could not have that decret by virtue of the testament, which he had reduced himself before the commissaries of Edinburgh, although the suspender had confirmed the same without protestation. But they ordained Cowbine's oath to be taken upon that sum, if he was owing it to his mother.

Page 148.

---

1650. *January 10.* JOHN LINDSAY *against* JOHN PEARSONE and OTHERS.

IN the suspension by John Lindsay against John Pearstone and others,—the Lords found the letters orderly proceeded, notwithstanding minority alleged even by way of reduction; because they offered them to prove, that the suspender was married, and vented wine in his house, and sold a part thereof to his good-mother: neither, being a merchant, could he obtrude minority; as was decerned against Agnes Short, cramer, married thereafter to John Cuthbertsone, gardener to my Lord Angus.

Page 148.

---

1650. *January 10.* HENDERSONE *against* PATRICK SPENCE.

IN the suspension at Hendersone's instance against Patrick Spence, charging for four years' tack-duty of a tenement of land,—the reason is, that the letters must be suspended for the half; because, by the said Patrick his contract of marriage with umquhile Elizabeth Hendersone, it is agreed that the half of their moveable goods shall pertain to either of them their heirs and executors; which contract is produced. As also, the said umquhile Elizabeth hath nominated the suspender her executor, who likewise hath urged the charger, before the commis-