

able; and the bond of relief given by Ravens to his cautioners behaved to be of the same nature with the principal bond; so that the relief was competent to the cautioner's heirs only, and not to his executors; and consequently the relict could have no third of it. This matter was much agitated among the Lords, whether the money being paid by the defunct, Edward Edgar, in his own time, the relief, conform to the bond, should be competent to his heirs or executors: Many inconveniences were represented on both sides, yet at last it was found competent to the executors.

The like was found betwixt Mr John Hart and Patrick Hart, his brother, 18th March 1630.

*Page 65.*

---

1628. *July 11.* ROBERT ARBUTHNOT of FINDOWRY *against* PATRICK LIGHTON.

SICKLIKE, Robert Arbuthnot of Findowry, assignee constituted to the tack of teinds of Fairniflet, pursued Patrick Lighton, provost of Montrose, for spulyie, as intromittor with the duties, both stock and teind. Alleged, His uplifting of the mails and duties from the tenants, made him not a spulyier, because he uplifted only the ordinary fruits, whereof they were in use of payment divers years before to his author: However, the Lords sustained the summons to be proven, *prout de jure*; with this caution, that it should not infer a spulyie, but only wrongous intromission.

*Page 88.*

---

1628. *July 22.* SMITH and HILSTON *against* WALTER HAY, Superior of the Lands and Living of BORTHWICK.

Two persons or more having comprised lands, if they shall charge the superior to enter them, he is obliged to do it at their own hazard, and he cannot refuse, by reason that he hath entered another before, and so has received a vassal already.

*Page 44.*

---

1628. *November 14.* DAVID BETSON *against* The LAIRD of GRANGE.

IN an action, pursued by David Betson of Cardon, against the Laird of Grange; the pursuer summoned Mr Lawrence M'Gil and Mr Lewis Stuart to be witnesses in the cause. They alleged, That they could not be forced; for that which they were to be examined upon was, if they had seen at any time a reversion of certain lands amongst Grange's writs, which they could not do, being his advocates, and therefore were not bound to reveal any thing they had seen of his secrets. Replied, *Quivis potest cogi ad dicendum testimonium, quod est munus publicum.* It is true, an advocate is not obliged to reveal any advice