

1649. *December 26.* WALTER KINNARDE of COUBINE *against* WALTER CHAMBERS.

IN the suspension, Walter Kinnarde of Coubine, cautioner for Innes of Coxtoune, against Walter Chambers, the reason against the special charge for payment of the duties since the crop 1644, at which time the said Innes, principal, had dispossessed the said Chambers, charger, and intruded himself in the possession in the lands wadset to the said Chambers; the reason, I say, That there was no ground in the contract to charge for the bygone maills and duties, was not sustained, in respect he was bound for Coxtoune to fulfil all the clauses contained in the contract; so that the cautioner must warrant the said Chambers to uplift the duties, crop 1637, and yearly thereafter, during the not-redemption. *Item*, The other reason in favours of the cautioner, That he should be free by the contract, he offering, after Coxtoune's majority, his ratification of the wadset foresaid; the which he now offers,—this reason, I say, was also repelled; because, by the contract, he is obliged to produce a lawful ratification and profitable, by Coxtoune, served and retoured thereon, infest after majority: which cannot now well be done, seeing all is comprised or adjudged from him in his minority, and reversion expired. And farther, the cautioner must be obliged for the bygone duties, because he can only be made free from the day and date of the production of a valid ratification.—*See page 446.*

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1649. *December 27.* DOBIE *against* PEARSONE.

IN the improbation and reduction pursued by Dobie against Pearstone, the Lords would not sustain the libel upon the general clause, except they would condescend by whom and to whom the writs called for were made; but they gave them leave to amend the libel, that it might infer certification of falset, *contra non producta*, suppose there was a special reason libelled in the reduction.

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1649. *December 27.* JOHN HALL *against* GABRIEL BAR.

IN the adjudication pursued by John Hall, skipper, against Gabriel Bar, as he who had renounced to be heir to his father Robert, in the pursuit of registration; the said Gabriel being called for his interest, propones that the said bond was for the part of a ship disposed by Hall to his father, which he refers to Hall's oath; and that the said Hall meddled with the whole profits of that, his part, which will far exceed the sums contained in the said bond; and this he offers to prove by witnesses. But the Lords would not suffer any probation by witnesses to take away the bond and writ foresaid, seeing he had action upon the disposition for all those profits that the ship made. *Item*, They found