

1649. *December 25.* ROBERT INGLES *against* The TENANTS of RAVENSTOUNE.

IN the action of removing pursued by Robert Ingles against the tenants of Ravenstoune, where litiscontestation was made against sundry parties, wherein probation was used;—the Lords would not receive, *hoc ordine et in hoc statu processus*, Sir William Lockard, who would have produced a prior infestment of his author; because, *in judicio possessorio*, it behoves him to prove them his tenants by payment of mail and duty, which were to make another litiscontestation; but reserved to him suspension, or rather to seek declarator on his right.

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1649. *December 25.* MAJOR M'BIRNIE *against* WILLIAM LIVINGSTOUNE.

IN the action, Major M'Birnie against William Livingstoune, where the said Major had used witnesses, but had deponed, conform to a general discharge of satisfaction and complete payment, they being the parties who had paid the excise for transporting of goods, could not well use the said William his oath for clearing of the quantities, not having divided his probation by the act of litiscontestation;—the Lords would have some of their number to see the process, if the oath might yet be required.

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1649. *December 25.* JOHN ORMESTOUNE *against* GRAY and BORELANDS.

JOHN Ormestoune having lent 300 merks to James Browne, who deceased, sought Janet Browne, apparent heir to the said James, for the same; who deceased also, and gave disposition of the lands to Gray and Borelands, which pertained to the said umquhile James; the which Gray and Borelands gave backbond to the said Janet, for her relief, and for payment of the said umquhile James his debt. Upon the which Ormestoune craves now payment by Gray and Borelands; who excepted, That they are content to pass from that disposition, having gotten another right of the lands. Which the Lords would not suffer; but condemned them in all contained in the bond, and £100 of expenses farther.

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1649. *December 25.* MORTOUNE *against* SIR JAMES DOWGLAS.

IN the report betwixt Mortoune and Sir James Dowglas, the Lords would not have Mortoune to count with the said Sir James for the relief of the burdens of Kilspindie's debt, since the Earl of Mortoune, by the posterior contract, had granted the receipt of £4000, and obliged him to refund and repay the same