

then an extract of his service, or retour, out of O. S. L. Chancellary, under the subscription of Jo. Acheson, Depute to Sir William Ker of Hadden, Director to the Chancellary; then his father's confirmed testament, under the subscription of Mr. Alexander Swinton, clerk to the commissariot of Edinburgh. Compears Mr. George Norvell, for Mr. William Burnet and Captain Veitch, and then passes from his compearance. Compears Jo. Scott, by his procurator, and alleges that he ought to be assoilyied from the points of the said summons, because he offered him to prove that the sum libelled against him was assigned by the pursuer's father to Sir Michael Nesmith of Posso, and his assignation intimated to the said defender; and that, accordingly, he had made payment thereof to Posso.

Which allegiance the Lords found relevant, and assigned a day for proving the same: at the coming of which, because he failyied therein, the term was circumduced against him, and decret given, as also against all the rest, ordaining them to make payment of the said sums to the pursuer.

*Act.* Mr. Robert Hay. *Alt.* Mr. Robert Sinclair.

*Signet MS. No. 26, folio 9.*

1663. *December 9.* JO. BOYDE *against* MAJOR GEORGE BRUCE.

MAJOR GEORGE BRUCE, son to Bruce of Clackmannan, by his bond, (which proceeded on some previous transactions anent warranting to the said Major the lands of Clackmannan, and for recovering to him such writs as might concern him for his security of the said lands; *item*, for making over to him a right of a comprising led against the said lands,) obliges him to pay 700 merks to Robert Younger, in Clackmannan, who assigns the same to Jo. Boyde, merchant in Edinburgh; but so that they should charge conjunctly. They having put the bond in the register, and got out letters of horning against him, he suspends, because, *1mo*, The causes above rehearsed, of the granting the said bond, are not fulfilled to the suspender. *2do*, The same money, before Jo. Boyde's assignation was intimated, was arrested in his hands at the instance of Robert Younger's creditors, which must be purged ere he can answer this pursuer. *3tio*, The said charge is altogether general; charging the suspender to make payment to Jo. Boyde of as much as shall be found resting to the said Jo. after count and reckoning made betwixt him and Robert Younger; and whatsoever shall be more, it must be countable, therefore, to Robert Younger.

Notwithstanding thir reasons, at the calling of the suspension the Lords found the letters orderly proceeded, aye and while the Major should make payment to the pursuers of the said sum of 700 merks; yet withal decerned, that how soon he should do that, that then Jo. Boyde should be holden to assign and dispone to the Major the comprising led at his instance, for this and other sums, against Robert Younger, of the tenements and acres lying in and about Clackmannan; without prejudice to the said Jo. Boyde, his comprising the said lands for other sums of money yet resting owing, unpaid.

*Act. Charger*, Mr. David Thoires. *Alt.* Sir Andrew Dick, Mrs. Lawrence Oliphant, and Jo. Colvill.

*Signet MS. No. 27, folio 9.*