

I procured another Civil Register of Decrees, beginning the 20th of January 1665, and ending the 18th of February 1665.

*Signet MS. folio 39.*

---

1665. *January 20.* ANDREW MOIR *against* MARGARET MUILD and MARGARET DAE.

MR. ANDREW MOIR, professor of physic in the burgh of Old Aberdeen, is infest in a tenement of land lying within the burgh of Perth, in the Venel thereof, called Fleming's Venel. By a precept of warning, forty days before the term of Whitsunday last bypast, he charges Margaret Muild and Margaret Dae, widows, tenants possessors of the said tenement, to remove and flit them and theirs, to the effect he and his tenants may enter thereto. This precept they having disobeyed, and the term being bygone, he summons them before the bailies of Perth, where he obtains decret against them, decerning them to flit and remove. Upon this decret he immediately raises letters of horning, charging them to remove within six days after the charge, and that under the pain of rebellion, of ward and imprisonment of their persons, and of ejection of themselves and their goods. This charge they suspend, *Imo*, Because the said suspenders being both poor widows, and having the charge of many fatherless children, they have lived these twenty-seven years as tenants in the said houses, without any trouble or molestation from any body, but especially from this charger, whose right they never so much as heard of, he never having pursued them for maills or duties, &c. *2do, Esto*, he were heritor of the said lands, whereof they know nothing, the said houses were set to them long ago; and so before this removing, by Jean Lethan, life-rentrix of the said tenement, and who stands infest therein, whom constantly they have acknowledged as master, by payment to her and her spouse, of the maills of the said house. Likeas, at the pronouncing of the said pretended decret, whereon the letters are raised, the said Jean Lethan's procurators compearing, objected, that no removal could be sustained at this now charger's instance, in respect of the said Jean her standing infestment; whom, till he did redeem, and so acquire her right, he had no power to remove. Notwithstanding of which defence, the bailies, against all law and reason, pronounced the decret foresaid, the like whereof has never been seen. *Item*, the said Jean is distressing and pursuing the said suspenders for payment, making to her of the said maills, in respect that she set these houses to them. And, therefore, till such time as the charger purge the said Jean her infestment, and so secure the suspenders at her hands, he was *in mala fide* to charge them to remove; as also, they can nowise be liable to obtemper the said decret. But, *3tio*, They are ready to depone they were never lawfully warned to remove. *Igitur, &c.*

At the calling of this suspension, the suspenders, by their procurator, repeated their reasons above set down : whereto it was answered for the charger, that notwithstanding thereof, the letters ought to be found orderly proceeded, and that he opposed the decret.

All which being considered by the Lords, they found the letters orderly proceeded ; decerned them to be put to farther execution, ay and while the suspenders should remove to the effect the charger may enter, &c. ; and that conform to his infetment and seasing thereupon, precept of warning, decret, act of Parliament, and custom within burgh.

*Susp.* Mr. Nathaniel Fyfe. *Alt.* Mr. William Moor, Wm. Lauder.

*Signet MS. No. 2, folio 39.*

---

1665. *January 20.* GILBERT GRAY *against* The EARL of HADDINTON, the KING'S ADVOCATE, TREASURER, &c.

WE saw before on the 21st of January, 1664, (*vide supra* page 368,) the Earl of Haddinton (as having got the gift of *ultimus hæres*, or of the bastardy of William Gray, once provost in Aberdein,) obtains decret of declarator of his gift against the relict and creditors of the said William Gray ; in which decret was reserved to the creditors, all their lawful defences upon their several rights, &c. Gilbert Gray, provost of Aberdein, finding that the said William was addebted to him in several considerable sums of money, amounting to some 3000 merks, as the bonds granted him therefore did bear ; *item*, that he was engaged in cautionry for the said deceased William, in divers considerable sums of money, amounting in all to 18,000 merks, for the payment whereof he was either actually distressed, or at least might be distressed ; and the said William being now dead, a bastard, having no lawful children of his own body, neither there being any of his deceased father's body, who in law might succeed or represent the said William Gray, Gilbert could neither obtain decreets for payment making to him of the foresaid sums addebted to him, nor for relief of his cautionaries against any person, as heir, or as lawfully charged to enter heir to the said deceased William, or otherways representing him, whereby adjudications, apprisings, or other legal diligences may be deduced, obtained, or used in the ordinary way, against the estate and means of debtors who are deceased, and who have heirs to represent them : therefore, he raises a summons against the Earl of Haddinton, as donatar, the King's Advocate, for the King's interest, Earl of Rothes treasurer, Lord Bellenden, treasurer-depute, and all others having interest to hear it, (*in subsidium* of other remedies) in all law, equity, and reason, found and declared that the whole goods and gear, both heritable and moveable, of the said William Gray, are and should be liable to him, for his relief and payment of the debts and cautionaries above written, for which he stands engaged, and is distressed ; *item*, that the foresaid debts being verified and declared, the said decret of declarator may be equivalent to a decret *cognitionis causa*, so that he may use adjudication of the said estate upon it, in the same manner as if the said William Gray had deceased, leaving apparent heirs behind him, which, having been charged by the pursuer to enter heirs, upon their renunciation were decerned *cognitionis causa*. For instructing this summons, the whole bonds, as-