

1693. *January 27.* PRYDE and FOGGO *against* FOGGO.

PRYDE and Foggo against Foggo, merchant in St. Andrews, her father. The Lords found, by the conception of the first contract of marriage, the father was fiar, seeing it obliged him to lay 500 merks of his own means to the L.1000 he got in tocher, and to take the hail 2000 merks to himself and his wife, and to the bairns of the marriage, without bearing to them in liferent, and the bairns in fee. But found, though he could uplift and dispose of it, for just and necessary causes, yet that he could not by gratuitous deeds wrong the children of the first marriage, by giving to the bairns of the second; but would not tie him down to stock it on land or annualrent, being a merchant, who behoved to trade with it; but only declared in general *declaratoria juris*. *Vol. I. page 551.*

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1693. *January 27.* SUSSANNA PHIPS and PETER SCOTT *against* ANDREW BRUCE.

SUSSANNA PHIPS and Peter Scott against Bailie Andrew Bruce, about the exchange of some bonds as the result of their trade. The Lords appointed two merchants to give their opinion, being *in re mercatoria*; especially seeing Andrew Bruce was content to pay the L.53 Sterling, for which they had no ticket, but only his own acknowledgement. *Vol. I. page 551.*

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1693. *January 28.* GRIZELL BRUCE, Petitioner.

GRIZELL BRUCE, spouse to Gavin Hamilton of Hill, gave in a petition, representing, that her husband was doing sundry deeds, both prejudicial to herself and her children, in favours of Raplock, his brother, and that she was about to quarrel the same, and her husband being the party, refused to concur; therefore craved the Lords would name a curator to authorize her in the pursuit of the reduction of these deeds, both for her own and her children's interest, and to give her an aliment *medio tempore*.

The Lords thought the first part reasonable, to name one for authorizing her in the process, in so far as concerned her jointure and the clauses of the contract of marriage in her favours, but not for her children; and would not modify any aliment *hoc loco*. See *Dury and Haddington*, the 9th January, 1623, *Marshall*. *Vol. I. page 552.*