

they allowed him to depone what was his meaning ; whether his sons should succeed to this portion of their sister's, in case of her being married, or *quandocunque* ; for though she had disposed it by her contract, yet, if the marriage had dissolved within the year, it would have devolved to the substitutes.—See *Durie*, 17th January 1665, *Edgar* ; and 22d February 1677, *Belshes*.

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1694. February 7. LADY CATHARINE and MARGARET BOYDS against The EARL of KILMARNOCK, their Nephew.

THE LORDS sustained their exhibition for production of the bond of provision given by their brother ; and, *medio tempore*, during the dependence of the process, allowed the annual rent of the sums therein contained, for an aliment ; without determining the general point, How far elder brothers are bound, *jure naturæ*, to aliment their younger brothers or sisters. And, in the Earl's reduction, it will occur to be debated, how far thir bonds of provisions may be quarrelled as granted *in lecto*, seeing the granter's father had a faculty to burden the lands, which he made no use of ; and if it was not so personal, that his son, the last Earl, could not make it the onerous cause of granting thir bonds.

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1694. January 3 and February 7. SIR ROBERT GORDON of GORDONSTON against MARY STEWART, Relict of Commissary Wood.

HALTON reported a bill of suspension presented by Commissary Wood's relict against Sir Robert Gordon of Gordonston, and Major James Wood, cautioner in a former suspension, wherein she offered to pay the debt, providing the charger would assign her to Major Wood's bond of cautionry ; which Sir Robert refused. As also, compearance is made for the Major, who ALLEGED they could not recur against him, because her husband had not only given a new bond, after his becoming cautioner for him, but also she herself had granted a bond of corroboration, since her widowity, for the debt, without any relation to the Major's cautionry, or any clause, that, on payment, they shall be assigned to all the security that was already taken for the debt. And the question was, Whether it accresced. For, in the case of more suspensions, it was thought, that the cautioner in the first suspension would be bound to relieve the cautioner in the second ; and he behoved to be first discussed ; and the second was only *subsidiariè* liable, and it is likely would not have engaged, had not he seen that sufficient caution was found before. But it was urged, That the granting of a bond of corroboration differed from a cautioner in a second suspension, seeing he became principal *correus*, and had relief only against the debtor, and not against his cautioner. And it was asked, if the cautioner might not have given a gratuitous discharge, to Major Wood, of his cautionry ; and it was yielded he might, any time before taking the bond of corroboration ; but, after that, it was