

Dunipace's (father and son,) long possession following, that there was a sasine given. Yet, because it was not produced, the allegiance was sustained.

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1565. *November 28.* JOHN FORMAN *against* His Uncle GEORGE.

THERE was an action pursued by John Forman against his uncle George, to whom he had made alienation of a tenement in the Cannongate, to hear and see the same reduced and declared to be null, with all that followed thereupon; because the said alienation was made by the pursuer, he being a pupil within thirteen years of age, not being authorized by a decreet of the judge interponed thereto, and no profit redounding to him thereof. Alleged, That the libel was not relevant, in so far as it concluded only nullity, and craved not to be restored *in integrum* by reason of his enormous hurt and lesion, which, by the received practise, he should have libelled. This allegiance was found relevant, and the defender assoilyed from the summons, as they were libelled.

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1566.

A CONTENTION being between a tutor testamentar and a wardatar, about the keeping of the person of a pupil, the wardatar was preferred, and ordained to have the keeping of him during the time of the ward.

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1583.

WHERE a party is obliged to another by virtue of a contract, (as if one hath obliged himself, by contract of marriage, to infest the children begotten of that marriage, in all lands conquest by him during the said marriage,) there needs no declarator proceed, (as to what lands were acquired that time;) but he may pursue for fulfilling the contract itself.

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1583.

AN exception against a spuilyie (that the goods were sold and delivered by the pursuer to the defender, which was observed to be proven *per scripta*,) admitted, notwithstanding that it was contrary to the libel; because of the probation by writ.

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