

## D I E S   I N C E P T U S .

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1624. June 26.      DRUMMOND *against* L. CUNNINGHAM-HEAD.

**I**N an action of suspension betwixt Dummond and Cunningham-head, where-  
in Cunningham-head being charged upon his obligation, as cautioner for  
Patrick Sommerville, to pay 1000 merks, which being suspended, as being sub-  
scribed by him, being then minor, having curators, without their consent;  
and this reason being elided by an *answer*, That he was major at the date  
and time of the subscribing of the bond; which being admitted, it was  
found by the probation, that he wanted 12 or 18 hours, or at the most a  
day of his years of majority, when he subscribed the bond foresaid, and for  
that inlake they found the bond null; for the LORDS found, That in this, and  
the like cases, the account behoved to be made *de momento in momentum*, for he  
was born upon the 24th November 1601, and the bond was subscribed upon the  
23d November 1622.

THE LORDS also found, That where a renunciation to enter heir is subscrib-  
ed by a minor, with consent of his curators, the curators are not restricted  
to be bound as cautioners for the minor, or otherwise to become obliged for him  
to warrant that deed, and that they are no further obliged, but to consent.

Act. *Nicolson.*

Alt. *Cunninghame.*

Clerk, *Hay.*

*Fol. Dic. v. 1. p. 236. Durie, p. 130.*

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1680. February 25.      WADDEL *against* SALMOND.

GEORGE WADDEL having married his daughter to George Salmond, and paid  
the tocher in her contract, being 1300 merks; the daughter having been mar-  
ried upon the 23d of November 1677, and having died upon the 24th of Novem-  
ber 1678, at two or three o'clock in the morning, Waddel pursues for repetition of

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**No 1.**  
The Lords  
reduced a  
bond of cau-  
tion signed  
by a minor,  
though he  
wanted only  
twelve or  
eighteen  
hours of ma-  
jority.

**No 2.**  
Marriage ha-  
ving conti-  
nued a full  
year and part  
of the day af-  
ter the year,