

ming and Frederick Hamilton, merchants in Glasgow. The question being, if the general balance was converted to the use of the co-partners; and the presumptions on both sides not being sufficient, before answer, the Lords ordained John Cumming to produce his books; and, in case the affair were not cleared that way, allowed the Reporter to call the arbiters before him, and examine them upon the same.

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1696. November 19. JOHNSTON and STEIL *against* LUDOVICK WILLISON *alias* CALANDER of DORATER.

RANKEILOR reported Johnston and Steil against Ludovick Willison *alias* Calander of Dorater. It was an objection against the pursuer's active title, as being an adjudication of a moveable debt. ANSWERED,—Though the original bond be personal, yet it was made heritable by a comprising deduced thereupon. REPLIED,—That apprising being led by the tutor, he could not alter the destination of the first succession. DUPLIED,—Though that be true, yet there was no inversion here; because they were both heirs and executors, and had the right *jure sanguinis utroque modo*.

The Lords thought a tutor cannot, by taking a collateral accessory security, divert the channel of succession; yet here, both rights centering in one person, they sustained the title.

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1696. November 19. KENNEDY and MUIR *against* MATTHEW CUMMING.

IN the process, Kennedy and Muir against Matthew Cumming, a transaction made with a minor being reduced *ex capite lesionis*, the other party craved caution that they should not crave to be restored, because she was still minor, and might revoke what she had now done any time before attaining her perfect age of twenty-five.

The Lords thought they could not force men *satisdare*, where the law did not oblige them. *2do*. If there were a plain and enorm lesion, it cannot be presumed she would seek to be restored against this decret, and subject herself to the lesion; so there was no room for restitution, else one who was pursued to pay a debt owing to a minor might say,—I will not pay, because you might revoke this afterwards; at least, you must find caution to secure me against your craving reposition *intra annos utiles*.

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1696. November 20. ALEXANDER TAIT *against* CHARLES MURRAY of HALDEN.

RANKEILOR reported Alexander Tait, merchant, against Charles Murray of Halden. The reason of reduction of the Commissaries' decret was,—that they