1684. *February* 27. DUNLOP *against* BROWN.

No 6.
A comprising against a minor, as served heir to his predeceffor, found still to fubsist, and to be of the nature of an adjudication *cognitionis causa*, when the minor *ex capite minorennitatis* is reponed and renounces.

IN the action of reduction, pursued by Dunlop younger, and his lady Antonia Brown, of a discharge granted to Andrew Lundie, by the said Dunlop, of his omissions as tutor to the said Antonia: THE LORDS found, that Wishaw having comprised from John Brown, as lawfully charged to enter heir to Sir John Brown, his father, for payment of a debt due by the said Sir John; had good interest to allege, that Lundie's comprising was extinct by omissions, as tutor to John Brown; and, that by the decreet, obtained against John, as lawfully charged to enter heir to Sir John Brown; the debt became John's debt, and he became personally liable therefor; and so Wishaw might propone compensation upon the omissions which were due by the tutor to the pupil. But the LORDS found, that Wishaw having comprised or adjudged from Antonia Brown, as heir to her father, Sir John Brown; (after the death of the said John Brown, her brother); and she having reduced the service upon minority and lesion; whereby the comprising was of the nature of adjudications, upon a decreet *cognitionis causa*; therefore, Wishaw could not compensate the sums contained in the tutor's comprising with the tutor's omissions, during the time of Antonia's tutory; in regard, they found the privilege of making the tutor liable for those omissions, was personal to the pupil, and to her assignees; and so sustained the discharge granted by Dunlop, of the said omissions, and found that the adjudgers could not quarrel the same.

*Fol. Dic. v.* 1. *p.* 3. *President Falconer, p.* 59. *No.* 87.

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1696. *December* 29. MURRAY *against* LORD SALINE.

No 7.
Found not to be a nullity in an adjudication *cognitionis causa*, that it had not been *allowed.*

IN the competition between Murray of Livelands and my Lord Saline, it was found no nullity of an adjudication, that it was not *allowed*, seeing it was after the old form on a decreet *cognitionis causa*; and only these adjudications were to be allowed, which came in place of comprisings, by the act of Parl. 1672. And the LORDS refused here, during the dependence, to sequestrate the rents and put in a factor; but recommended to the Ordinary, to bring the ranking to a close; for one may not be dispossessed, unless there be great evidences, that his right is either invalid, or satisfied by partial payments or intromissions.

*Fol. Dic. v.* 1. *p.* 3. *Fount. v.* 1. *p.* 748.

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1709. *January* 4.
ANDREW KER, Merchant in Edinburgh, *against* KATHARINE PRIMROSE, Relict of Mr DAVID HERIOT, Advocate.

No 8.
Adjudication, upon renunciation, sustained; although ob-

IN a competition, betwixt Andrew Ker and Mrs Heriot, for the mails and duties of some acres of land in Corstorphine:—THE LORDS sustained an adjudication at her instance, upon her son's renunciation, and a decreet *cognitionis causa*, obtain-