

*animo decipiendi*, is found relevant to debar the minor from restitution. And sicklike, that he swear not to come in the contrary of the bond made by him, by seeking to be restored, is likewise found relevant to debar him from craving restitution. And both these allegiances to be proven by the minor's oath.

2d MS. Page 145.

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1637. March 2. GEILLS SMITH *against* PATRICK HEPBURN.

GEORGE Barclay, for a just debt, assigns a bond to his mother, Geills Smith. Patrick Hepburn, executor to the said George, denounces the said bond to be comprised; after the date of the said assignation, but before the intimation thereof; and, after the intimation of the said assignation, comprises the said bond. The assignee contends, That she has best right to the said bond, as having an assignation thereto for a true debt before the debt was contracted to Patrick Hepburn; and, before any comprising was deduced at his instance, the assignation was lawfully intimated to George Barclay's debtors. It was alleged by Patrick Hepburn, That he has best right to the bond, by reason he had denounced the same to be comprised, before any intimation of the assignation: and seeing an assignation unintimated hinders not the cedent to make another assignation; which, being intimated first, will be preferred to the first assignation; Patrick Hepburn having, by his denunciation, begun the process of his comprising, and thereby coming in place of the cedent, no posterior intimation could prejudice him. The Lords preferred the assignee.

2d MS. Page 38.

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1637. March 9. The LAIRD of LAWERS *against* DUMBAR.

WHERE there are three heirs portioners, one of them cannot be pursued by a creditor to their father *in solidum* for the haill debt, but for her own third part thereof; but the whole three must be summoned and discussed before action can be granted against any one of the heirs portioners.

2d MS. Page 6.

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1637. March 15. JAMES BROWN *against* JAMES LANDS.

JAMES BROWN, son to Mr Nicoll Brown, being a prodigal youth, is interdicted to James Brown, his uncle, That he shall make no bonds, nor contract debts, nor become cautioner, without consent of his said uncle. Hereupon the uncle intends reduction of two bonds made by the said person interdicted, to James Lands, *ex capite interdictionis*. It is alleged by the defender, That the reason of reduction is not relevant; because, albeit one interdiction may stay the person interdicted to dispone his heritage, yet it impedes not a creditor to have execu-