

produced, stood him L63, Scots; she depones she received it, and laid it in a close room, and afterwards gave it out to her servant to be given back.

The Lords advising this oath, found the husband liable; but in regard it was an used cloak, they modified the value to 60 merks.

*Advocates' MS. No. 527, folio 271.*

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1677. *January 4.* The EARL OF GLENCAIRNE *against* JOHN BRISBANE.

THE Lords, in the cause of the Earl of Glencairne and John Brisbane, found, where a man pays the adequate price of land, and, *ex gratia et favore*, grants to a friend a reversion personal to him, and his heirs of his own body, but nowise to his assignees, that the reversion was not transmissible, and could not be affected, adjudged, nor appraised; and being for personal respects, could neither accresce to the creditors of him to whom it was granted, nor be communicated to them. *Vide* Dury, 24th March, 1630, Maxwell, and the other quotations there.

*Advocates' MS. No. 528, § 1, folio 272.*

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1677. *January.* ANENT CAUTIO JUDICIO SISTI.

ONE becomes caution *judicio sisti*, to present a boy who is within ten years old, and that without a suspension. Thereafter he suspends. The cautioner being convened, offers to present him with a renunciation of the suspension. *Quæritur*, If this salves the failie? I think it satisfies the obligation; especially since you could not have incarcerated him, not being *proximus pubertati*, which begins but at ten and a half, dividing the time with the doctors between infancy, ending at seven, and pupillarity beginning at fourteen, in two moieties.

*Advocates' MS. No. 528, § 2, folio 272.*

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1677. *January.* ANENT TUTORS.

A MAN nominates his wife tutrix to his bairns, and in case either of her death or marriage, names another person; she refuses to accept, and renounces. *Quæritur*, This being *casus non cogitatus*, and not provided for by the father, if, on her renunciation, *fit locus tutori substituto*; like the two cases, *voluntatis et impotentia*, in vulgar substitutions of heirs. It is probable there will be room for a tutor-dative; yet so that if the tutor offer to accept, he *tanquam ex voluntate patris presumpta*, will be preferred to any other.

*Advocates' MS. No. 528, § 3, folio 272.*