

would not give power to ane inquest to serve ane man tutout befor he were 25 yeirs of age, and that the confessione of the dispensation usit by the pairtie maid the service and tutorie null.

No 18.

*Fol. Dic. v. 1. p. 576. Haddington, MS. No 355.*

1593. February 21.

FORROUS against GOURLEY and STEVENSON.

No 19.

A MINOR *majorennitate proximus* offering himself as cautioner to the fisk, can not enjoy his privilege to his Majesty's prejudice (the fisk being also privileged) upon allegiance that he was minor *curatores habens*.

*Fol. Dic. v. 1. p. 576. Haddington, MS.*

1620. February 10.

LORD EGLINTON against His VASSALS.

No 20.

INCIDENT sustained in favours of a minor for his own evidents.

*Kerse, MS. fol. 146.*

1623. January 16.

MAITLAND against CASCHOGILL.

MAITLAND of Eccles pursued Caschogill, as donatar to his ward, to pay him for his entertainment since the year 1606, to the year 1618. It was *excepted* by the defender, He should be assoilzied, because the pursuer was all that time entertained by his mother, which he referred to his oath? and that he, by paction with the pursuer's mother, had allowed her yearly some bolls of meal and some money to entertain her son, pursuer, which she had accepted and done, which he referred to her oath. It was *replied*, That the probation could not divide, but the whole exception behoved to be referred to the pursuer's oath, neither could he be urged to swear, being minor. THE LORDS found, the exception relevant and probable on the several members, by the oaths of the mother and son, and that he, therefore, albeit minor, might give his oath *super facto proprio*, especially being eighteen years of age.

*Fol. Dic. v. 1. p. 575. Haddington, MS. No 2723.*

No 21.

Found that a minor might make oath *super facto proprio*.