

1623. *January 28.*

No 22.

EXECUTORS OF KINNIER *against* EXECUTORS OF ADAM RAE.

THE executors of umquhile James Kinnier writer, who had written, and formed diverse writs and securities to umquhile Adam Rae, pursues the executors, and bairns of the said umquhile Adam, for payment to them, of the prices of the said writs, and referred to their oaths the summons, viz. both anent their knowledge of the said umquhile James's forming, and writing to the said umquhile Adam their father, diverse writs and securities; and also to their knowledge, that the same remained yet unpaid. THE LORDS found, that the defenders ought not to be compelled to give their oaths, albeit the pursuers referred the knowledge of the debt, that it was true, and that it remained unsatisfied as yet, to their oaths, seeing they were minors the time of the forming and making of the said writs, and could not have knowledge thereof, neither could they have knowledge, nor depone, whether it was paid or not.

Act. *Hope & Belsbes.*Alt. *Nicolson & Lawrie.*Clerk, *Hay.**Durie, p. 42.*

No 23.

1624. *February 3.* Lady MONTGRENAND *against* The Laird of BLAIR.

THE Lady Montgrenand pursued the Laird of Blair as tutor to her son, for the charges of his entertainment for certain years. He excepted from the 1616 to the 1621, because at that time the minor's grandmother being alive and life-rentrix of the whole fee, there was nothing at that time whereupon he might have been entertained; and so the mother having kept him, it should be imputed to her natural love, and she should have no recompense for it. *Replied;* That he having now come to his own, she had just action for all the years before; which was sustained, the Chancellor's vote prevailing.

*Spottiswood, (MINORS and PUPILS.) p. 210.*

No 24.

The oath of a minor may be taken in an exhibition.

1628. *June 19.*E. MARR *against* HIS VASSALS.

IN an action of improbation by the Earl of Marr against the Vassals of Marr, an incident being used by one of the defenders, who were minors, for having of the writs libelled, and the pursuer referring the having of these writs to the parties oaths; it being controverted, if minors could be holden to give their oaths, or if certification should be granted against them, and they holden as confest for not compearance, being for that effect cited, the LORDS found, That minors, albeit within 21 years, yet if they were past the age of 14 years, and so past tutory, ought to give their oaths in this and the like cases, and