the evidents called for thereby were the defender's own evidents, seeing the defender, user of the incident, was a minor; and so it might be probable, that he was not master, nor haver of his own writs.

Act. Hope and Rollock. *Alt.* Aiton and Mowat. Gibson, *Clerk.* *Vid.* 19th July 1625, Hay; 6th February 1622, Grier.

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1626. *June* 29. The LAIRD of GLENGARNOCK *against* The LAIRD of MUSHET.

THIS same day, in a Removing at the La. Glengarnock's instance, compearance being made in the name of L. Mushet, who had sold the land to the L. Buchanan, and an exception admitted to his probation, at the term, a discharge being produced from Mushet to his procurators, to compear for him,—the Lords found, that Buchanan, who had bought the lands from him, might compear in that same state of the process, and repeat that same exception; and deduce, in his own name, probation thereon, notwithstanding of Mushet's discharge, who, in the act, only compeared and proponed the exception; and so that Buchanan might stay the circumducing of the term, which the pursuer sought, in respect of the said discharge.

Vid. 27th November 1627, L. Drum.

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1626. *July* 1. GEORGE SCOT and WILLIAM INGLIS *against* DAVID JUNKINE.

IN an action of deforcement, pursued by George Scot for himself, and as assignee constituted by William Inglis, *against* David Junkine, who had taken away certain goods pertaining to William M'Kean, debtor to the said George Scot and William Inglis, and which they were poinding for satisfying of the said debt, at the deducing of the which poinding, the said David Junkine deforced the officer;—in this process the Lords sustained the pursuit also moved by the assignee constituted by Inglis to his part; albeit the assignation was dated after the intenting of this action, and so it could not be a title to instruct that pursuit and summons, whereas the same was dated after the intenting of that pursuit by him as assignee. Which allegeance was repelled, and the assignation sustained to instruct that pursuit, seeing the same had relation to another assignation of an anterior date, which was lost; and also the cedent present concurred at the bar in this pursuit with the assignee, and affirmed the assignation.

Vid. 29th July 1625, E. of Wintoun; 20th January 1625, L. Selms; 20th March 1623, Lo. Yester.

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