

comprised from him ; the minor, in his adventitious goods, be not prejudged. *Item*, If a minor use trade or merchandise. *Item*, If the father be absent forth of the country, so that the minor's business cannot be expedie, &c. Neither think I this exception of nullity can be well received by way of suspension, as in some nullities is usual, being contained in a writ itself ; as, namely, where a husband and wife subscribe a bond for borrowed money ; because, in our case, it must abide probation, both of the father's life, the time of the minor's subscribing, and that he was minor then ; for that which the Romans called *senatus consultum Macedonianum* is of long last, *donec filiusfam. fuerit emancipatus et a patria potestate liberatus*.

Page 64.

---

1649. *November 24 and 27.* The LAIRD of RENTONE *against* LADY AYTOUNE ; and RENIE and MAKANE *against* CUNINGHAME.

THERE was much dispute thir days *respectivè* : the 24th day, in the Laird of Rentone his process against the Lady Aytoune ; and on the 27th, in the process Renie and Makane against Cuninghame, for some chalders of salt : anent insisting upon process after litiscontestation, and proponing of exceptions to be verified instantly, after witnesses had been received, and probation renounced. But the Lords, as they thought the first dispute idle, so they would not, in the other, infringe nor loose the form of process, except the pursuer would agree thereto. Yet they gave liberty to propone their exception, by way of suspension, and to prove it as in a reduction, the same consisting *in factò*.

Page 66.

---

1649. *November 27.* ROBERT RAE and ROBERT PORTEOUS *against* The EARL of MURRAY.

ROBERT Rae and Robert Porteous, pursuing the Earl of Murray upon his bond of 840 merks, for wainscot, dated in December 1643, not payable till February 1644 ;—there is a discharge, granted in January 1644, obtruded by the Earl ; which his servant, Mr David Stewart, purchases, bearing him to have paid 80 merks for 100 deals, which the granter confesses satisfied, and all other timber coft by the said Earl. But the Lords did not think that the word timber would comprehend the wainscot, but that the bond should specify discharged or redelivered, since it contained a great sum, and the sum contained in the discharge which was received was but very mean.

Page 67.

---

1649. *November 27.* MARION WHYTE *against* HELEN MITCHALL.

In the suspension, Marion Whyte against Helen Mitchall, who had decreet