

years' purchase to make up an adequate price to be given to the heir, rather than undergo the hazard of a reduction of the roup, though they ought not to be quarrelled on such grounds. Cullain and Girvanmains gave in an appeal from this interlocutor to the Parliament.

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1696. *February 6.* SIR ALEXANDER PURVES of PURVESHALL, and His SON, *against* The LADY KINCARDEN.

ARNISTON reported the reduction pursued by Sir Alexander Purves of Purveshall, and his Son, against the Lady Kincarden, of a decret obtained against them for £18,000 Scots, as the intromission which Sir William, his father, had with sundry ward, marriages, and other casualties, whereof the Earl of Kincarden had a gift.

The Lords would not go upon that ground which was urged, That minors were restored *contra rem judicatam*, though there be a title in Justinian's Code, *adversus rem judicatam*, to that purpose; for they had found, in the Marquis of Montrose's case against Cochran of Kilmarnock, that minority did not repon against a sentence *in foro*, especially when the point was *in jure*: But the Lords found several grounds here to open the Lady's decret to this effect, that the minor might be heard upon the articles of his lesion; seeing his tutors and curators were not called, nor the passive titles proven; and several other grounds. Many lawyers lay down this as a conclusion, *Minorem restituendum contra probationes omissas*; but this carries its own difficulties with it, as it was argued betwixt Sir John Hay of Muiry and Gray of Begerno and Poury.

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1696. *February 7.* The WEAVERS of GLASGOW *against* The WEAVERS in the GORBELLS.

By contract passed betwixt thir two incorporations, those in the Gorbells are obliged to pay in to the Glasgow websters 20 shillings Scots termly for every loom; and that for the privilege of working their trade, which the craftsmen of royal burghs might hinder these living in their suburbs to exercise, by the 159th Act Parliament 1592. From this agreement several questions arising, it was debated whether they were liable as a society, or only each man for his own part. *2do.* If they were bound to collect their dues among themselves, and bring it to the Glasgow weavers, or if they ought to come to the Gorbells and exact it; whether the *locus contractus* be the rule, or if the debtor is bound to come and seek out his creditor and offer it to him.

The Lords thought this exaction not so favourable; and therefore found them not bound to collect it, nor pay it in, but only when it was required of them; and that they were not liable as a collective body, but each man for the looms he kept.

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