

No 2.

1565. November 27. BRYSON against SOMERVILLE.

A BOY, though *pubertati proximus*, was found not capable of committing spuilzie in order to-punishment.

Fol. Dic. v. I. p. 575. Maitland.

* * This case is No 20. p. 1703, *voce* BONA ET MALA FIDES.

No

A pupil cannot be imprisoned for his father's debt.

1577. December 16. JOHNSTON against ———.

THERE was one Johnston, pupil in Edinburgh, and a burghess, who was warded in Edinburgh conform to the use of burgh for his father's debt. He desired, by supplication, to be freed forth of ward, because he was pupil and minor within the age of 12 years, and the holding of him in ward stopped him to be brought up in virtue and knowledge, and *alleged* he was not able *in bonis mobilibus* to make payment, yet he had lands within burgh which might be appraised. It was *answered* thereto, His lands were his mother's in conjunct fee of the same; and notwithstanding he was minor 12 years, and was holden from the schools, yet *ex jure naturali neque minor neque quivis alius debet locupletari cum alterius jactura*. THE LORDS nevertheless decerned the minor to be freed of the ward; they followed the practise before of a minor being in ward who offered *cessionem bonorum*.

Fol. Dic. v. I. p. 575. Colvil, MS. p. 259.

No 4.

1582. November. HOME against HOME.

IT was *alleged* against the execution of letters of advocation, that the same was not sufficient, because it was made by a boy of eleven or twelve years of age, who could not be executor more than he could not be witness, *prout in L. 3. D. De testibus*. THE LORDS nevertheless found by interlocutor, that, because he was *pubertati proximus*, he ought to be witness into this case.

Fol. Dic. v. I. p. 575. Colvil, MS. p. 340.

No 5.

Personal execution for debt against a woman past 14 years of age was superseded.

1625. June 24. SOMERVILLE against Her Father's CREDITORS.

JEAN SOMERVILLE daughter to umquhilè Samuel Somerville burghess of Edinburgh, being charged to pay a sum, wherein her said umquhile father was cautioner for Patrick Somerville, which Patrick was brother to her father, and tutor to her, after her father's decease; and which Patrick becoming bankrupt,