

No 68. moveable subjects; and, therefore, reduced the bond and assignation, and decret following thereon, in so far as the same are prejudicial to the pursuer's relief of the defunct's moveable debts."

But the LORDS took up the matter upon the first point; and

" Found, That the deed in question was a deed *inter vivos*, made by a minor, without consent of his curators; and, therefore, void and null."

Act. *Jo. Dalrymple, Lockhart.*

Alt. *And. Pringle, Brown, Ferguson.*

*J. D.*

*Fol. Dic. v. 4. p. 4. Fac. Col. No 66. p. III.*

#### S E C T. IV.

What a Minor cannot do even with consent of his Curators.

1623. February 8. SALTCOATS *against* The JUSTICE-CLERK.

No 69.

A minor cannot discharge a bond, even with consent of curators, without payment made.

SALTCOATS being bound as cautioner to the Justice-Clerk, to infest Mr William Kellie in lands redeemable upon 3000 merks, and to pay the principal upon requisition, charged the Justice-Clerk to relieve him of his cautionry. The Justice-Clerk suspended, upon an acquittance made by his daughter, (who was assignee to Mr William Kellie), authorised by himself as lawful administrator to her. Saltcoats *alleged*, That in effect the offer was, that the Justice-Clerk should discharge himself, and that the daughter might revoke the discharge, and annul the acquittance given to the cautioner, without payment. In respect whereof, the LORDS found not the discharge sufficient.

*Fol. Dic. v. 1. p. 577. Haddington, MS. No 2753.*

No 70.

A discharge, granted by a minor, without an one-rous cause, was found null, although she might have disposed the sum in testament.

1626. July 25. LOCKHART *against* LOCKHART.

ONE Marion Lockhart having given discharge to Lockhart of Bar of a sum of money, wherein the father of the said Lockhart of Bar was obliged to the said Marion; the said Marion pursues an action of restitution *in integrum* against the said discharge, by reason the same was done in her minority, having neither received money nor other good deed; which action was sustained, notwithstanding the defender *alleged*, that this action could not be sustained, except the pursuer would allege, that the said discharge was given by her *sub*