

1682. *February.* Gairns *against* Mr. WILLIAM CLARK.

No. 205.

The curator of Reven of Gairns having gone off the kingdom, and left his pupil in family with Mr. William Clark, whom Mr. William, by several missive letters to his friends, called his pupil; and Mr. William, who had the custody of Gairns' papers, having transacted with his creditors, and got abatements, and having taken rights in his own name; Gairns pursued a declarator, that these eases should belong to him, Mr. William being in the case of a pro-curator.

The Lords found, that Gairns having a curator, could not properly have a pro-curator; but found Mr. William liable as *negotiorum gestor*, or factor, and that he could not have the benefit of the eases, which ought to be forthcoming to the pursuer, deducting his expenses; and Mr. William did not reclaim, but rather consent to this.

*Harcarse, No. 973. p. 276.*

1683. *March.* GRIERSON of Lag *against* CARRUTHERS of Hole mains.

No. 206.

A minor having, after his majority, intended a reduction and declarator, that an apprising acquired by the curator was satisfied by intromission with the pursuer's estate;

Answered for a third party, who had got an assignation to the apprising during the curatory; that the apprising was in the person of the curator before he was curator, and so not being acquired *nummis pupilli*, he might dispone to singular successors for onerous causes.

Replied: The comprising was compensable, in so far as the curator had intromitted with the minor's money before assignation and intimation to the defenders, infetment not having followed on the comprising.

The Lords, before answer, ordained account and reckoning.

*Harcarse, No. 975. p. 276.*

1683. *November.*

THOMAS WILSON and His WIFE *against* The REPRESENTATIVES of RATHO.

No. 207.

The Representatives of Ratho, who had been tutor and curator to one Spence, craved a yearly allowance for incident charges, which they could not condescend upon but in the general, that there behoved to be charges, the defunct having been at great pains and care about the pursuer's estate, and improved it to double the value well secured.

The Lords did not give him allowance *hoc nomine*, viz. for pains and incident charges, which was not condescended on; but they modified the aliment during