

No 7. or dumb, or such-like, or in the great inequality of years, as if an old man were offered to a young woman.

Act. *Hope et Scot.*

Alt. *Nicolson, Belsbes, et Cunninghame.*

Clerk, *Scot.*

*Fol. Dic. v. 1. p. 132. Durie, p. 28.*

\* \* See This case by Haddington *voce* MARRIAGE (AVAIL OF). See Urquhart against Barclay, No 33. p. 840. where the like was found as to a requisition at the instance of a wadsetter.

1624. February 20.

FAIRNEY *against* AYTON.

No 8.

A MINOR being summoned without citation of his tutors and curators, the LORDS refused to cast the summons, but assigned a day to the minor to get himself authorised with tutors and curators.

*Fol. Dic. v. 1. p. 132. Haddington, MS.*

\* \* \* See This case *voce* MINOR.

1626. March 8.

E. KINGHORN *against* COLLACE.

No 9.  
A father administrator, need not be specially cited; it is sufficient that tutors and curators are cited in general.

IN an action of removing of tenants defenders, pursued at the instance of the Earl of Kinghorn, from the lands and barony of Dods, wherein one called Robert Collace was convened; who being minor the time of his citation, and then having his father living, who was administrator to him of the law; THE LORDS sustained the process, and the summoning of the said minor, being summoned by the principal summons, and executions thereof, with his tutors and curators generally, and they being generally summoned, albeit that his father was not specially summoned by the execution, who was then living, whom the LORDS found needed not to be specially summoned, as said is, seeing the tutors and curators were generally summoned.

Act. *Hope et Rollock.*

Alt. *Aiton et Nairn.*

Clerk, *Gibson.*

*Fol. Dic. v. 1. p. 132. Durie, p. 189.*

No 10.

A suspension against a minor was sustained, altho' executed against the charger only,

1627. March 1.

BURGESSES OF GLASGOW *against* LO. LORN.

IN a suspension at the instance of the Burgesses of Glasgow against the Lo. Lorn, who had charged the suspenders for payment of the assyse herrings, the LORDS sustained the suspension, albeit it was executed against the charger only, and not against his tutors and curators, he being minor, neither was there any

warrant in the suspension for to summon his tutors and curators, without whom had been cited, he *alleged* he could not be compelled to reason upon that suspension; which allegiance was repelled, seeing the suspenders had summoned the Ld. Lorn himself, to whom the command of the letters, and charges produced by him, ordained the payment to be made, and bore no mention of his tutors and curators, and so they summoned him, to whom the command of the letters craved payment to be made; and albeit it was *replied*, that a minor may make his condition better without his curators, yet no legal process can be led against him, without his curators were cited, that also was repelled.

Act. Hope.

Alt. ———.

Clerk, Gibson.

*Fol. Dic. v. l. p. 132. Durie, p. 283.*

1628. July 12.

BENNET *against* TURNBULL.

In a removing, Rachel Bennet *contra* Turnbull, the defender being minor, the LORDS found no necessity to warn the tutors and curators by the precept of warning, they being summoned by the principal summons of removing, for the precept is not a judicial act; and also the defender defending upon a personal contract made by the pursuer's author, anent the borrowing of money from the defender's father, to whom he was heir, for the which he was bound, to give the defender's father and his heirs security of the lands libelled, and disponded the same by the said contract, (no other real right following) to be bruiked without any duty to be paid therefor, in place of the annualrent of his money, ay and while the lands were redeemed; by payment of the principal sum, according whereto he and his father have been in continual possession of the lands these many years bypast; which security being of the nature of a tack, ought to defend him; this exception was repelled against this pursuer, who was a singular successor in the right of the lands.

Act. Taylor.

Alt. Belshes.

Clerk, Hay.

*Fol. Dic. v. 1. p. 132. Durie, p. 388.*

1629. December 17.

L. CAIRNOUSSIE *against* L. TECHMURIE.

CAIRNOUSSIE after comprising of lands from L. Philorth, the legal being expired, pursuing a declarator of redemption against Techmurie, to whom the land was wadset before the comprising, by the forbears of him from whom the same was comprised, under reversion; it was found, That the heir of him from whom it was comprised, being publicly infeft in the same lands, needed not to be summoned in this redemption, seeing in effect he was author to the compriser; for having the right of his conventional reversion established in his

No 10

and not against his tutors and curators; neither was there any warrant in the suspension to summon them.

No 11.

Tutors and curators need not be certified in extra-judicial acts, such as warnings, but must be called in summonses of removing following thereon.

No 12.

In a declarator of redemption against a minor, the Lords found, that the tutors and curators need not generally be warned in the instrument of pre-