

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 disponed 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-