

1605. July 24. M'ADAM against LAIRD of Lag.

No 49.

M'ADAM pursued the Laird of Lag for registration of an obligation of 500 merks. It was *excepted*, The obligation could not be registered, because it was null, being made by him, being minor, having curators, without their consent. It was *replied*, That the sum therein contained was applied profitably for the behoof and utility of the defender, for the redemption of his land. It was *answered*, That the obligation was null of the law; and, therefore, the party could not be held to dispute upon utility or lesion; notwithstanding whereof, the LORDS repelled the allegiance, in respect of the reply.

Fol. Dic. v. 1. p. 576. Haddington, MS. No. 942.

1622. March 21. SETON against L. CASKIEBEN.

No 50.

IN an action pursued by Mr George Seton against the Laird of Caskieben, the LORDS found, that a tack taken by Caskieben, a minor, without consent of his curators, was as null as if he had made a disposition without their consent; because, his acceptation of that tack, if it should stand, would prejudice him of a valid tack for more years, and a less duty, which he had before.

Fol. Dic. v. 1. p. 576. Haddington, MS. No. 2620.

* * Kerse reports this case.

THE LORDS found an exception of a tack by a minor, who had another right in his person standing, being done without consent of his curators, null *ipso jure*.

Kerse, MS. fol. 146.

1627. June 22. DRUMMOND against B. BROUGHTON.

No 51.

MR JAMES DRUMMOND having charged the Baron of Broughton for his fees, conform to his obligation, containing the sum of 200 merks, the Baron suspending, that, at the subscribing of the said obligation, he was minor, having curators, who consented not thereto; the LORDS found this allegiance relevant against the reason, that the bond bore to be given to him, who was his Pedagogue, for his fees and service; and that he offered to prove that he was his Pedagogue, and served and attended him, as the bond bore; so that this cause being expressed in the bond, and the verity thereof being proved, which they found probable by witnesses, and found no necessity to refer it to the suspender's oath; they found this sufficient to maintain the bond against the reason of minority, and having of curators not consenting to the bond; seeing the suspender alleged not that his fees were satisfied, and he compensated *aliunde* by any other.

Act. *Primrose*.

Alt. ———.

Fol. Dic. v. 1. p. 576. Durie, f. 29