

No 147. to pay to her the duties of the lands of intromitted with by him; which lands were given to her in recompense of the lands which she had renounced to him, being her conjunct-fee of before; and her Son suspending, That the victual was paid;—this reason was found probable by witnesses to be produced at one term without more diets; albeit the charger *alleged* it could not be proved but by writ, the debt being constituted by writ, which was repelled, seeing the party was obliged to pay her victual yearly, and the delivery thereof was probable by witnesses, and that it was for the same cause, was also presumeable, if the delivery were proved; seeing the party could qualify no other cause of debt to which the delivery of victual could be ascribed; and for the lands given in recompense for the lands renounced, the suspender *alleged*, That she could seek no more but according to the avail of the lands-renounced, the just yearly rent whereof he was content to pay to her; even as in lands given in warrandice of other lands evicted, the warrandice will not exceed the eviction; but, albeit the lands of warrandice were more worth, the same will be limited to the worth of the principal, and no further. This reason was rejected, and the suspender found liable in the avail of the whole lands given in recompense, albeit of more yearly avail than the lands renounced were.

Act. Nairn.

Alt. Nicolson.

Clerk, Gibson.

Fol. Dic. v. 2. p. 224. Durie, p. 689.

No 148. 1636. July 10. GARDNER *against* CHALMERS.

IN a reduction of a contract entered into by a minor *majorennitati proximus*, the LORDS considering his quality, that he was a public notary the time of signing the contract, and was the drawer of it himself, they sustained the defence, That he had homologated the contract since majority, by payment of annual-rent, to be proved *prout de jure*, notwithstanding it was to fortify a contract reducible in law, whereby a minor had disposed his heritage.

*Fol. Dic. v. 2. p. 220. Spottiswood.** * This case is No 155. p. 9024. *voce* MINOR.

No 149. 1662. January 7. Earl of LAUDERDALE *against* TENANTS of SWINTON.

A TENANT, who had no tack, was allowed to prove by witnesses payment of his money-rent, not exceeding L. 100 termly.

*Fol. Dic. v. 2. p. 224. Stair.** * This case is No 5. p. 10025. *voce* PAYMENT BEFORE HAND.