

1561. May 20.

KINCAID against ———.

ANENT the action pursued by John Kincaid of P., anent a gentlewoman of the ———, for removing from certain lands; it was *alleged* by the said gentlewoman, That she ought not to remove, and the said John had no power to warn her from the said lands, because that he who was heritable possessor before him had given the said lands to her in liferent. It was *replied* by the said John, That he that gave them to her was minor, and within age the time of giving thereof, and so the said gift was null in itself; which alleageance of the said John was repelled by the LORDS, and found that a minor wanting curators may give or analzie lands, which gift shall not be null; but the minor when he comes to perfect age may reduce the same; and if he have curators, and gifts or analzies without their consent, that is null in itself, as was reasoned among the said LORDS.

*Fol. Dic. v. 1. p. 579. Maitland, MS. p. 135.*

No 96.

Alienation by a minor, having curators, made without their consent, found *ipso jure* null. But if the minor have no curators, the alienation is valid, till it be reduced.

1577. January 24.

BRUCE against ———.

THERE was one of the Bruces of Easter Kennet that warned one to flit and remove from certain lands. It was *answered*, That he would have no just action to warn to flit and remove, because that, long time before the warning, he had renounced and overgiven all right and interest that he had to the said lands. To this was *answered*, That the renunciation was null in itself, because the time of the alleged making thereof he was in his infancy, viz. of six years only, and did the same without consent of his tutors and curators, *et in ea ætate neque velle neque nolle censetur habere pupillus*. To this was *answered*, That he was now *major annis et virili ætate, et tacuit per utile quadriennium*, and so he ought to have bought the ordinary remeid of the law, *et beneficium restitutionis in integrum cum causæ cognitione*. To this was *answered*, That he insisted not to seek the same *ordinaria via*, because, *fuit nullum ab initio, et quod est nullum ab initio non potest tractu temporis convalescere, et cum ipso jure tutus fuit pupillus, et communi auxilio non opus fuit nec extraordinario*. L. 16. D. De minoribus. THE LORDS found by interlocutor, that the renunciation of the pupil being of seven years old was null from the beginning, without reduction, albeit that the pupil *tacuit per utile quadriennium*.

*Fol. Dic. v. 1. p. 579. Colvil MS. p. 261.*

No 97.

A deed granted by an infant is *ipso jure* null.