

1624. November 18. The LAIRD of LAGG *against* His TENANTS.

IN a removing, at the instance of the L. Lagg *against* his Tenants,—the Lords found an exception proponed by one of the defenders upon an heritable infestment, granted to him of the lands libelled, clad with 40 years possession continually without interruption, not sufficient to defend the excipient in that judgment of removing, except the defender alleged by whom he was infest, and that his author had power to grant him that infestment; and so the defender was forced to dispute upon the validity of his author's right in that Judgment Possessor, without any reduction.

*Act.* Cunninghame and Belshes. *Alt.*———. Gibson, *Clerk.* *Vid.* 18th July 1626, La. Glengarnoch; 17th February 1627, Wilson; 19th November, betwixt thir parties.

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1624. November 25. RAMSAY *against* Her CURATORS.

IN an action of reduction, pursued by one Ramsay of Dundee *against* her Curators, for reducing of an act of curatory upon this reason, *viz.* because the curators were chosen by her within the time of her tutory, she having lawful tutors for the time, and the years of her tutory not being fully expired, when she choiced the said curators,—the Lords found this reason relevant, and reduced the act of curatory; albeit it was alleged that the reason was not relevant to reduce the said act, and to remove the curators voluntarily chosen by herself, within a month or two only before the age of pupillarity, specially where this was neither fraud of the curators, nor wrong, or negligence qualified against them, and without the which, or that the minor had been prejudged or hurt, in some sort, by the said election; albeit the same was done in so short a space, only before the time of law appointed for choicing of curators; and being once chosen and doing their duty, ought not to be removed, no suspicion being able to be qualified against them. Which allegiance was repelled; and the reason nakedly conceived, bearing only that curators were given before the full expiring of the years of tutory, without any other qualification, was sustained and found relevant to reduce. And when the curators, defenders, desired to be repaid of the necessary expense debursed by them, profitably, in the pursuer's affairs since the time of their accepting to be curators, which they alleged ought to be repaid to them before they were removed from their office, and that they ought not to be put to any new pursuit therefor;—this was also repelled in this process, seeing the minor, not being lawfully authorized, could not be holden now to answer thereto, while new curators were chosen who might defend her, and reserved to them their action to pursue therefor, *prout de jure.*

*Act.* Rollock. *Alt.* Russel. Gibson, *Clerk.* *Vid.* 5th December 1627, Rollock.

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