

No 52.
1629. January 9.

BROWN *against* NICOLSON.

BROWN, the defender, being pursued for 200 merks, for the price of a horse, bought by him from the pursuer; and he excepting upon his minority the time of the buying of the said horse, and having curators then who consented not, and in his lesion and circumvention the horse being crooked when he was sold, and that he offered to render him as whole as he received him; this allegiance was repelled, and the action sustained; and it was found, that a minor's block for a horse of this price, in respect of the defender's estate, who was Laird of Cockburnspath, might subsist and take effect, notwithstanding that the curators consented not; and the alleged lesion, and offer of restitution was not respected, seeing it was now made *pendente lite*; whereas, it was a year past since the defender received the horse, since the which time he had made no such offer.—*See SALE.*

Act. *Nicolson.*

Alt. ———.

Clerk, *Hay.*

Fol. Dic. v. 1. p. 577. Durie, p. 412.

No 53.
1629. June 20.

L. HADDO *against* Mr ROGER MOWAT.

AN action for delivery of writs was sustained at the instance of a minor having curators, without consent or concurrence of his curators, against an Advocate, haver of the writs, in whose custody the same were put by the minor and his curators, and the curators neither assisting the pursuit, nor yet being convened in the process by the minor, for the exoneration of the Advocate, with whom the writs were deposited.

Act. *Burnet.*

Alt. *Present.*

Clerk, *Gibson.*

Durie, p. 448.

* * * Spottiswood reports this case.

THE Laird of Haddo and his Curators having delivered to Mr Roger Mowat Advocate in custody his whole writs and evidents; afterwards the minor being married, and desiring to enter to his lands, craved to have his evidents for that effect, to show to his superior. Mr Roger *alleged*, He having got them from the minor and his curators, he could not deliver them to him being minor, without the consent of his curators; yet the minor and his father-in-law, the Laird of Tolquhon, offering to find caution to re-deliver them to Mr Roger, after they had served their turn with them;—the LORDS ordained him to lend them out.

Spottiswood, (MINORS AND PUPILS.) p. 213.