

1629. July 4. CORBET of Ardill *against* His NEAREST of KIN.

No 12.

L. ARDILL compearing in a summons, as use is, for choosing his curators, and one of the minor's kin compearing and producing horning against two of the curators; and these curators *alleging* that they might be curators to the minor, notwithstanding they were at the horn, because if they should be thereby secluded, the minor would sustain the prejudice and not they, for so the minor would want authorizing to do his affairs: THE LORDS found, That none at the horn being alleged and shown, could be curators to minors, nor suffered to compear to do any act to be expedie in judgment before they were relaxed; and albeit caution uses to be taken for curators, yet that supplies not to make rebels to be admitted to such charges by judicial acts.

Act. Nicolson.

Alt. ———.

Clerk, Hay.

Fol. Dic. v. 2. p. 86. Durie, p. 456.

* * * Spottiswood reports this case:

1629. July 2.—A MINOR having chosen curators at the bar, it was *objected* against one of them by the minor's tutor, that he was lying at the horn, and so could not administrate the minor's goods. THE LORDS thought it relevant, and repelled him until he was relaxed.

Spottiswood, (TUTORS and CURATOR.) p. 347.

* * * This case is also reported by Auchinleck:

1629. July 2.—A CURATOR being chosen by a minor, and being at the horn, cannot be admitted till he be relaxed.

Auchinleck, MS. p. 29.

1629. July 17. Earl of CASSILLIS, Supplicant.

No 13.

THE Earl of Cassillis being minded to serve himself, heir to one of his predecessors, upon the day of his service gave in a bill, shewing that it might be, that the Earl of Wigton, who thought himself interested by the service, might press to debar him from secret hornings that he knew not of, desired therefore that the Lords might grant him in person to stand in judgment in case any horning were produced against him, and he should instantly find caution for satisfying the cause contained in the horning. THE LORDS refused the bill as a novelty.

Fol. Dic. v. 2. p. 86. Auchinleck, MS. p. 86.