

No 55.

a little before his decease. It was *excepted* by the defender, That the said umquhile John Sharp being minor, his executors cannot be obliged for any gear furnished to him, without direction of his curators. It was *replied*, That the pursuer being his merchant before, and in use to furnish him, and being past 16 or 17 years of age, might very lawfully take up such merchandize as was necessary for him, *viz.* apparel, whereof he produced the account, and offered to prove the receipt of the particulars by the minor; and referred to the Lords the reasonableness of the prices. THE LORDS repelled the exception, in respect of the reply.

*Auchinleck, MS. p. 135.*

No 56.

1632. December 19.

MAXWELL *against* EARL OF NITHSDALE.

A MINOR having signed his sister's contract of marriage, and therein promised a sum in tocher to her, he having curators, without their consent; it was reduced by the Lords, though the action thereupon was moved forty or forty-five years thereafter; but they reponed the sister also, who had in the contract discharged her bairns part of gear.

*Fol. Dic. v. I. p. 576. Durie.*

\* \* \* This case is No. 45. p. 2115. *voce* CAUTIONER.

1634. March 22.

RYND *against* E. DUNFERMLINE.

No 57.  
Found in conformity with Inglis *against* Sharp, No 55. p. 8941.

JOHN RYND pursuing the Earl of Dunfermline for sums, as the price of merchant-wares furnished to him and his Lady, conform to his subscribed account; and sundry of the particulars of the account wanting the consent and direction of the defender's curators, being then and yet minor, and so alleged to be null; the allegiance was repelled, and the action sustained; in respect the whole account was subscribed by the minor, and the greatest part of the articles had the approbation of his curators: Likeas, the pursuer was his ordinary merchant, who was in use to furnish him in all times preceding.

Clerk, *Scot.*

*Fol. Dic. v. I. p. 576. Durie, p. 716.*