

No 12.
monition,
since they
were specially
and *nominatim*
warned.

person, by that comprising, which being a judicial assignation, it behoved to be alike, as if the debtor had made him assignee to that reversion, *quo casu* he needed not to have summoned his cedent. *Item*, It was found, That the redemption being against a minor, the tutors and curators needed not generally to be warned in the instrument of premonition, his tutors being specially warned *nominatim*; but it was found, that the pursuer ought to instruct, that he was tutor, and prove the same *cum processu*.

Act. *Laurie, Davidson, et Baird.*

Alt. *Nicolson et Hay.*

Clerk, *Gibson.*

Fol. Dic. v. 1. p. 133. Durie, p. 475.

* * See This case by Hope, *voce* WADSET.

No 12.
In a removing
against a fa-
ther and his
son, the son
being minor,
and the fa-
ther summon-
ed as admini-
strator to him,
this was found
sufficient, tho'
tutors and cu-
rators were
neither gene-
rally nor spe-
cially sum-
moned, and
tho' he had
other cura-
tors.

1630. July 17.

L. LIE *against* PORTEOUS of Hawk-shaw.

IN a removing against the father and the son, the son being minor, and his father summoned as administrator to him, the summons was sustained, albeit the tutors nor curators were neither generally, nor specially summoned, which was not found necessary, albeit the son had other curators given to him than his father, and that his father was not one of them; and the warning being quarrelled, because the time of the execution thereof, the party was out of the country, and he was neither warned at the ground of the lands, nor at the parish-kirk, upon sixty days; this allegiance was repelled, and the warning sustained, because he was warned at the ground of the lands, and the parish-kirk, upon forty days: and he was warned also at the market cross of Edinburgh, and pier and shore of Leith upon sixty days, which was found to be sufficient, and that he needed not to be warned upon sixty days, at the ground, nor parish-kirk.

July 20.—ONE compearing, and defending against the said removing, by virtue of a disposition of the liferent made by that rebel, whose liferent was sought, and possession conform thereto, and which was acquired from the rebel, for oneous causes of a just debt; THE LORDS repelled the allegiance, and sustained the donatar's right, because when this party disponded his liferent to this excipient, he was then rebel; and albeit he was not then rebel year and day, whereby his liferent was acquired at that time to his superior, yet he being then rebel, and continuing in that rebellion, which was *in cursu*, and from the which the rebel was not relaxed within year and day, how soon the year was expired, made the liferent of these lands to fall to the superior, wherein he was not prejudged by the said preceding disposition, made before the year expired, being made as said is, after he was at the horn, and the same being *in cursu*. See ESCHEAT.

Act. —.

Alt. *Scot.*

Clerk, *Gibson.*

Fol. Dic. v. 1. p. 132. Durie, p. 532.