

implied in the act 1672 anent tutors and curators, *sed vide* Balfour, Title REDEMPTION OF LANDS, Cap. 20.

No. 4. 1736, Feb. 19. SCOTT of Rossie *against* STRACHAN of Balgavies, &c.

THE Lords unanimously found that the curators ought not to give allowance of the L.100 promised by Rossie to the tutor for undertaking the office. They would gladly have given the allowance, and thought the tutor deserved it, but they thought it not in their power and likewise *mali exempli*.

No. 5. 1736, July 30. M'WHIRTER *against* MACKILVAN.

THE Lords preferred the tutor of law and who was his pupil's next successor to the custody of his pupil, a girl of five years old, before the grandfather by the mother's side, (the mother having married a second husband) the tutor offering to aliment gratis. What moved them to do so was the smallness of the pupil's means whereof the interest was only about 40 merks *per annum*, which I own I thought no good reason, because neither seemed the tutor to be very rich.

No. 7. 1736, Dec. 10. WAUCHOPE *against* WAUCHOPE.

See Note of No. 6, *voce* MINOR.

No. 8. 1737, June 17. SIR ROBERT DOUGLAS *against* SIR JOHN SCOTT.

See Note of No. 12, *voce* PRESCRIPTION.

No. 9. 1737, Nov. 4. CARMICHAEL *against* PORTEOUS.

THE Lords found that it is not competent to the tutors to object to the pupil's right to the subjects intromitted with by them *tutorio nomine*; 2dly That there is sufficient evidence that there was a conveyance by the mother to the pupil's younger children, 28th June. 4th November, The Lords adhered to the above interlocutor.*

* There is a contraction here in the manuscript not easily deciphered, but which seems to denote that the President was against the interlocutor.

No. 10. 1739, Nov. 16. WATSON *against* DAVIDSON.

See Note of No. 10, *voce* ALIMENT.

No. 11. 1739, Dec. 4. E. M'WHIRTER *against* E. FOWLER.

THE Lords adhered to the Ordinary's interlocutor, and thought that such a general intromission and management inferred a protutory without ever assuming the name of tutor; in which I own I had a difficulty, and thought that would be no protutory by the civil law.—December 4th The Lords adhered, *remit*. Arniston, Tweddale, *et me*.