

TUTOR—CURATOR—PUPIL.

1500. *December 4.*

WILLIAM DOUGLAS *against* ROBERT BOYD and JOHNE KERNIS, his Tutor.

GIF ony actioun or cause be intentit aganis ane pupill and his tutor, and befoir the intenting thair of, or thairefter, the tutor be commandit to ward be the Kingis grace, the actioun and cause aucht and sould be continewit and delayit aganis the said minor, untill his tutor, quha sould have defendit him, be fred and relevit fra his captivitie and ward; and in the mean time of the continuatioun and endurance in ward of the tutor, all lauchfull defences and exceptionis ar reservit to baith the parties, and all prescriptiounis aucht and sould sleip and ceis, quhilkis utherwayis nicht have run and had course in the said matter.

No. 1.

Balfour, p. 119.

1501. *March 30.* N. *against* JOHNE CREICHTOUNE.

Ane minor beand in ward in the Kingis or uther superiouris hands, na actioun or clam taiching his ward-landis may be intentit or proponit aganis him, except the King, or his uther superiour, be warnit to compeir for his defence; because the minor sould be defendit in all sic actiounis be him in quhais handis and powar he is, be ressoun of ward.

No. 2.

Balfour, p. 119.

1522. *December 1.* M. JOHNE BOSWELL *against* JAMES LOGANE.

All tutoris, als weill testamentaris as utheris, and all curaturis, aucht and sould at the end and ische of thair office and administratioun, give and mak befoir ane Judge ordinar, just reckoning, compleit satisfioun and payment to him to quhome thay war tutoris or curaturis, and to sum of his speciall freindis, of all and sindrie gudis, geir, maillis, grassumimis, annuelrentis, bandis, sowmis of money,

No. 3.

- No. 3. insight guidis, bairnis part of geir, and airschip guidis, with all and sindrie commoditeis and proffeitis thairof, and utheris pertening to him, and intronettit with, tane up and ressavit be thame, as tutoris or curatoris, of all zeiris and termis, dayis and times of thair administratioun and office ; and to that effect the time that thay ar constitute tutoris or curatoris, thay aucht and sould find caution for just administration, induring the time of thair office, and for just count and reckoning in manner foirsaid.

Balfour, p. 120.

* * * The same found 25th November, 1505, John Grahame against Sir James Scrymgeour, Constable of Dundie. *IBIDEM.*

1527. *May 22.*

JONET FOREMAN, Relict of Umquhile ALEXANDER OLIPHANT of Kellie, *against*
JOHNE OLIPHANT of Kellie, Knight.

No. 4.

The cure and keiping of ane air, beand minor, and of all uther minoris, perenis to the mother efter the deceis of thair father, quhill thair age of sevin zeiris compleit ; and the mother in this cais aucht and sould be preferrit to the said minor's guidschir, and to all the rest of his freindis and kinnismen.

Balfour, p. 336.

* * * The like found 1st March, 1517, Marjorie Durie against I aird of Dowhill and Lochlevin ; and 4th August, 1516, The King and Tullibardin against the Laird of Wedderburne. *IBIDEM.*

1528. *October 17.* The KING *against* WALTER OLIPHANT and Others.

No. 5.

Gif the father lauchfullie maryis his sone, and puttis him in the fie of his landis, and thairefter the sone deceisses, leivand behind him ane air, gottin of his bodie, of les age, and within tutorie ; be the law and consuetude of this realme, the said pupill was, the time of his fatheris deceis, in his fatheris powar allanerlie, and be ressoun of his deceis made fre of all fatherlie powar, and on na wayis in the powar of his gudschir, grandschir, or ony utheris his predecessouris zit on life : And thairfoir, gif ony of thame makis and constitutis in thair testament or latter will, ony tutor testamentar to the said air, beand zit pupill, the samin constitutioun, with all that followis thairupon, is of nane availl, force, nor effect, and may be reducit as maid in fraud and prejudice of the tutor of law, and failzeing him of the richt grantit to our Soverane Lord be ressoun of his Crown, in making and geving tutoris dative to pupillis not lauchfullie providit of uther tutoris.

Balfour, p. 115.