

1528. *December 6.*

ALEXANDER FORESTARE of Costorphine, *against* WILLIAM FORESTARE
His Tutor.

No. 6.

Gif ony tutor deburse and pay of his awin proper gudis, induring the time of his tutorie, to the utilitie and proffit of his pupill, or to the confirmatioun or reparatioun of his housis, or heritage, as in redeming of wodset landis pertening to the pupill; the pupill being furth of tutorie, or within the age of tutorie, and under ane uther tutor, aucht and sould restore and deliver the samin to his tutor.

Balfour, p. 120.

1529. *March. 12.*

The KING *against* ALEXANDER FORESTAR, PROVEST of CORSTORPHIN.

No. 7.

The narrest agnat and cousing of the fatheris side aucht and sould be lauchfull tutor to the pupill, gif he be of lauchfull age, and immediat to succeid to the pupill, gif it happin him to deceis without airis of his bodie, quhidder the said agnat be ane Abbot or uther ecclesiasticall persoun; the quhilk, be the law and consuetude of this realme, are not secludit fra successioun, and swa consequentlie aucht to be admittit to the office and charge of tutorie; quia ubi est spes et commodum successionis, ibi et onus tutelæ esse debet.

Balfour, p. 117.

1529. *July 28.*

JAMES SANDILANDIS of Calder, *against* EDMUND SINCLAIR.

No. 8.

Gif ony man maryis ane heretrix of landis, haldin be service of ward and releif and thairefter scho deceis, leivand behind hir bairnis gottin betwix thame, male or female, the keiping of the saidis bairnis, beand minoris, and within perfeit age, pertenis to the superiour of the saidis landis; for he aucht and sould have thame deliverit to him, and have thame in his keiping, that he may dispone upon thair mariage; and in this cais he sould be preferrit to thair father, and uther kinnismen or freindis quhatsumever.

Balfour, p. 338.

1532. *October 21.* The BISCHOP of MURRAY *against* LORD DRUMMOND.

No. 9.

Gif ony persoun has just richt and titill to the mariage of ony air, beand of les age, albeit he have na richt to his ward, he aucht and sould be preferrit to the

- No. 9. said minor's tutor anent the keeping of his persoun, bot sould on na wayis be preferrit thairintill to the superiour or wardatar.

Balfour, p. 337.



- No. 10. 1533. *January 15.* A. against B.

Gif the tutor happinīs to intromet with the gudis and geir of the pupill, not beand responsal thairfoir, he may be removit fra intromissioun, unto the time he find sufficient caution in maner abone expremit.

Balfour, p. 118.



1533. *March 27.* JONET NEWTOUN against N. KER of Mersingtoun.

- No. 11. Albeit the superiour, tutor, or ony uther persoun, have the keeping of the persoun of the pupil, nevertheles the pupil beand of fourtene zeiris of age compleit, his persoun is not under his keeping, bot he is fre, and at his awin libertie; because ward and keeping of minoris pertening to the superiour, tuiching the keeping of the minor's persoun, the samin endis at the samin terme and zeiris as tutorie usis to do, viz. at fourtene zeiris; albeit it be utherwayis tuiching landis, gudis and geir, the keeping of which enduris quhill his perfeit age. Gif the superiour gevis and disponis to ony man the ward and mariage, or allanerlie the mariage of ony air, pertening to him, the said donatar aucht and sould not have the keeping of the said air's persoun, he beand of the age of xiiij. zeiris compleit, because he is then at his awin fre will and libertie to remane quhair he pleisis, et intelligitur venisse in suam tutelam, et esse in sua ipsius custodia.

Balfour, p. 337.

* * The like found 26th March, 1534, William Mathesone against Jonet Wedderby. IBIDEM.



- No. 12. 1533. *April 15.* A against B.

Tutorie testamentar, lauchfull or dative, endis and expyris quhen the pupill, beand male, is of xiiij zeiris compleit, and beand female, of xij zeiris; and thairfoir, gif the tutor be callit, as tutor, in ony cause, and he alledge and prove that the pupill is past the age of xiiij. or xij. zeiris, he sould not be compellit to answer as tutor thairanent.

Balfour, p. 121.