

No 20.

Auchterlony, *voce* TUTOR and PUPIL; and the other cases there cited: Whereas a tutor of law ought to claim his right within the year, which Captain John did not, and Sir John Ramsay could not accept alone till other two would act with him, and so he did not renounce; and he is responsible and most willing to compt. THE LORDS, much against the Chancellor's inclination, preferred the tutors-testamentar; in which the President was very zealous, seeing they designed to put him in the hands of his uncle, a papist, that the child might be bred at Doway. Instruments were taken by Captain John against the accepting tutors. *imo*, That they may be liable for L. 200 Sterling of pension the Earl would get, if the King had the disposal of his education. *2do*, To be liable for all the prejudice he has sustained through their acceptance these six years bygone. But tutors nominate are only liable from the date of their acceptance; which, as I have observed *alibi*, is most unjust, and was only introduced by Gosford, in his cousin, Wedderburn of Kingennie's case with Scrimzeour. See TUTOR and PUPIL.

*Fol. Dic. v. 1. p. 171. Fountainball, v. 1. p. 515.*

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SECT. V.

Whether Reduction be requisite of Decrees Arbitral;—Of Legal Instruments;—Of Inhibitions;—Of a Deed executed by a Woman *vestita viro*;—Of a Decree of Preference in a Multiplepinding.

No 21.

Found that no exception of iniquity, nullity, &c. can be proponed against a decree-arbitral; a reduction only being competent.

1540. February 11.

HAMILTON *against* HAMILTON.

NA exceptioun of iniquitie, nullitie, or uther quhatsumever, may be proponit or allegit contrare the executioun of ane decreete-arbitral lauchfullie given. But the proponer thair of sould use and allege the samin, be way of actioun, gif he pleisis, for reductioun and retractatioun of the said decreete.

*Fol. Dic. v. 1. p. 171. Balfour, (ARBITRATION.) p. 415.*

No 22.

A party producing an instrument of requisition, and the other party offering to prove directly the contrary of what was

1583. February.

EARL of CRAWFORD *against* OGILVIE.

THE Earl of Crawford warned Ogilvie of Beish to hear and see certain lands of, &c. to be lawfully redeemed, and consigned the soume of       merks, together with ane letter of tack after the redemption of nineteen years, conform to the bond of reversion. The silver and the tack being produced before the Lords, it was *alleged*, That the tack was not the first tack that was consigned, but newly made and forged, and sua the first tack being uplifted after the con-