

1555. *March 11.* MURRAY *against* MERSCHALL.

No. 36. The father, in his testament or latter will, may give ane tutor testamentar to his bairn beand in the motheris womb unborn the time of his deceis, quhidder it be male or female.

Balfour, p. 116.

1556. *December 16.*

The TUTOR of CONGILTON *against* The LADY CONGILTON.

No. 37. Ane tutor may not persew, as tutor, in judgment, except he first find caution for leil and trew administratioun in his office, and for just compt and rekning.

Balfour, p. 118.

* * * See No. 27. p. 16222.

1557. *July 14.* ANDRO WOD of LARGO *against* ELIZABETH MONYPENIE.

No. 38.

Thair ar thre kindis of tutoris ; for sum tutoris ar testamentaris, sum tutoris of law, and sum ar tutoris dative ; the tutor testamentar sould be preferrit to the rest ; and quhair thair is na tutor testamentar, the tutor of law sould have place ; and failzieing of thame baith, the King may constitute a tutor dative, *De Maritag. C. 14. De Tutor. C. 1.* The tutor testamentar is gevin be the father in his testament and latter will ; the tutor of law, or lauchfull tutor, is servit tutor. be ane brief of the chancellarie befor the Schiref of the schire, quhair the pupill dwellis, and thairefter the King gevis to him ane testimoniall under his greit seill, upon the retour of his service.

Gif the mother be maid and constitute tutrix testamentar to hir bairn, and defiles hir bodi be fornicatioun, or committing of adulterie with ony man, scho foirfaultis and tynes the office of tutorie, and the narrest agnat to the pupill succedeis in hir place as tutor of law.

Balfour, p. 114. and 116.

1558. *February 29.* MATHOU LILLIE *against* N. FORRET.

No. 39.

Divers and sindrie curatouris beand gevin to ane minor, ilk ane of them may be caution and sovertie for utheris for faithfull administratioun in thair office, and for just compt and rekning to be gevin to thame at the end thairof.

Balfour, p. 122.