

standing whereof, the Lords found the power of the full office of tutory was devolved in the mother's person, and that her consent was lawful.

*Fol. Dic. v. 2. p. 384. Haddington MS. No. 1679.*

1612. January 8. EDGAR against JACKSON.

IN an action of count and reckoning, pursued by the son and heir and executor of umquhile Captain Edgar, against John Jackson, son and heir of umquhile John Jackson, who was one of the tutors of the said Edgar, pursuer, the Lords found, That no process could be granted for count and reckoning of the testate goods for a third, because that pertained to the relict; that no count and reckoning could be granted for another third, because there was another executor; and the pursuer, having three tutors, could not pursue this defender, but for a third of the goods belonging to the pursuer, unless he would expressly prove John Johnston's particular intromission with the goods acclaimed.

*Fol. Dic. v. 2. p. 383. Haddington MS. No. 2346.*

1612. February 22. HUNTER against WILSON.

A MINOR having two tutors to him *conjunctim* may pursue every one of them for his gear *pro ratis portionibus*, and needs not to prove their particular intromissions, but pursue every one of them for the half, because they were bound to intromit, and do their diligence; but one of the tutors will have his action of relief against the other tutor, according to his intromissions, because each one of them should answer to his colleague for his particular intromission.

*Fol. Dic. v. 2. p. 383. Haddington MS. No. 2409.*

1621. January 23. STEWART against KIRKWOOD.

FOUND, That a tutory testamentar expires not when one of them deceases, albeit they were named conjunctly.

*Fol. Dic. v. 2. p. 384. Kerse MS. fol. 133.*

1628. February 9. JAMES CHALMERS against MARGARET CUNNINGHAM.

A RENUNCIATION of a minor being quarrelled, that it was only subscribed by two of her curators, there being four chosen by the acts of curatory, sustained notwithstanding by the Lords.

*Fol. Dic. v. 2. p. 383. Spottiswood, p. 346.*

No. 80.

No. 81.

In an action between a minor and the heir of one of his three tutors, the defender was found liable only for a third of the goods belonging to the pursuer, unless the pursuer would prove his intromission with the goods claimed.

No. 82.

No. 83.

No. 84.