

No. 190. had his pension from my Lord when he was major *sciens et prudens*, bearing expressly, for his good service in my Lord's affairs, during my Lord's travels, which takes off all pretence of malversation. And for the other sums they were truly lent to, and given out for my Lord, and were no gratifications, and the charger spent that part of his life with my Lord, which might have fitted him for any other employment at home, which is now lost.

The Lords found, that seeing the accounts were transacted with Mr. John as Governor, he ought to give some account of the manner, and reason of the expenses, reserving to the Lords the manner of charge and discharge, and the effect, how far the charger should be liable beyond his intromission.

Stair, v. 2. p. 585.

1678. February 25. ROSE of Garlestone:

No. 191.

A tutor or curator is not in law obliged to lay out the annual-rent of the minor's money upon annualrent, but the rents of lands he must lend out after a year.— See APPENDIX.

Fountainhall.

* * This case is mentioned in No. 8. p. 9986. *voce* PAYMENT.

1678. July 26.

PEARSON of Kippenrosse *against* BELSHES of Toffs.

No. 192.

An action against him as tutor to count. He craves £.100 as the yearly aliment. Answered, The annual of their money uniferented was but 100 merks. The Lords found, except in very singular cases they would not suffer the aliment to exceed the annual-rent.

Fountainhall MS.

1678. January 18.

GRAY *against* The LADY BALLEGERNO.

No. 193.

A Testament naming tutors found valid, the defunct not being able to subscribe, having given warrant to Ministers to subscribe, tho' he died before they fully subscribed.

Umquhile Ballegerno having no sons, provides his estate to his eldest daughter, with the burden of £.20,000 to his other daughters in case he had two or more, and £.12,000 in case of one, payable at the first term after his death; he did also name his wife and some other persons tutors to his bairns. He had two daughters, Mary and Margaret, who survived the first term after his death. This provision was with a power to the father to divide the portions off the £.20,000 and in case he divided not, to two friends after his death, which two friends did divide to Mary the elder 20,000 merks, and to the successors of Margaret, who is dead, 10,000; whereupon there is a pursuit at the instance of Mary against