

(DUE BY TUTORS AND CURATORS.)

be made liable for the annualrents during the tutory; because the defunct John Lockhart, granted a disposition to my Lord Lee, for the use and behoof of certain persons, to whom he appointed several sums to be paid, and the said legatars were found liable for the principal sum, but absolved from the annualrent, as being *bona fide preceptum*, the disposition of trust being reduced upon the head of deathbed.—And it being *replied*, That by the common law, tutors were obliged to employ their pupil's money upon land, which was better than annualrent: *2do*, That there was in our law no order of discussing or distinction betwixt intromitting tutors and other tutors, but all were *in solidum* liable to the pupil: *3tio*, Mr John Ellis was in *dolo*, he having contravened John Lockhart's disposition of trust to my Lord Lee, and having advised, and obtained a decret of declarator, finding the foresaid disposition to have been granted when he was *in leige pouste*, albeit he was truly upon deathbed; which consisted with Mr John's knowledge:—THE LORDS found Mr John liable *in solidum*, for the annualrents of the annualrent which were due the time of the expiration of the tutory; and found, That he ought to have cleared counts with the curators, and stocked the annualrents that were due to the pupil at that time; and found, That he was not liable to stock any annualrents during the currency of the tutory.

No 41.

President Falconer, No 91. p. 62.

* * * The same case is likewise reported by Sir P. Home.
See TUTOR and PUPIL.

1679. December 2. HAMILTON *against* WILLIAM VEITCH.

A TUTOR compt.—THE LORDS find the tutor must pay annualrent for vic-tual rent and house mails, within a year after they are due; and made no dif-fence betwixt country rents and town rents, though the last are sooner gotten in; and found him not liable for the annual of annualrent of sums of money, till after the expiring of the tutory, for which there is no equity but mere cus-tom.

No 42.
A tutor found not liable for annualrent of annualrent, till after the expiry of the tutory.

Fol. Dic. v. 1. p. 39. Fountainhall, MS.

1688. February 23. THOMAS WILSON *against* FOULIS of Ratho.

THE LORDS, on Castlehill's report, renew the former interlocutor, (See 29th November 1683, No 39. *supra*.) and find the 100 merks modified must be deduct-ed, not at the end of the account, but of every year.

No 43.
Although a tutor *semel in tutela*, must