

confined to the conduct of it, and who would not be subject to expenses, however ill founded might be its conclusions. No. 314.

It was observed on the Bench, That a child may have many reasons for bringing an action against his father; but before a summons is raised against him, a previous investigation should take place with regard to the grounds of it, and for that purpose a factor *loco tutoris* should be appointed by the Court.

On the other hand, it was thought, that the action was competent with the appointment of a tutor *ad litem*, as directed by the Lord Ordinary; 16th January, 1740, Johnston, No. 270. p. 16346; and that if the tutor proceeded in the action, he would be responsible for the conclusions, as well as for the conduct of it.

This and a second petition, 9th March, 1798, were refused without answers.

Lord Ordinary, *Dunsinnan.*

Act. *John Clerk.*

Alt. *Hay, Jo. Dickson.*

Clerk, *Menzies.*

D. D.

Fac. Coll. (APPENDIX) No. 5. p. 9.

1798. *March 6.*

LADY CHRISTIAN GRAHAM and Others, *against* The EARL of HOPETOUN.

No. 315.

It is not a relevant objection to curatorial inventories, that of three relations of the ward by the father's side called in the action, for making up, two of them were not his nearest in kin.

A tutor being also the heir at law of his ward, purchasing lands for him with his moveable funds, is bound, in the event of his ward's death, either to account for their price to his executors, or to give them a conveyance to the lands.

The tutor of a fatuous person, although his heir a law, is not accountable to his executors for rents employed in paying heritable debts affecting the estate.

A tutor being also the heir at law of his ward, is not entitled, in accounting with his executors, to take credit for money employed in re-building a mansion-house and deer-park, and in making ornamental plantations.

Fac. Coll. No. 66. p. 150.

* * * This case is No. 143. p. 5599. *voce* HERITABLE AND MOVEABLE.

1800. *February 5.*

LORD REAY *against* JAMES ANDERSON and Others.

No. 316:

Hugh, Lord Reay, who held the estate of Reay under a strict entail, having been cognosed for insanity in 1768, his three uncles, and the survivor of them, were appointed his tutors dative. The tutor of a person cognosed for in-