

1628. *March 8.* MUIR and THOMSON *against* KINCAID.

No. 85.

THREE tutors being nominated conjunctly, in a pursuit at the instance of one against the other two, to accept or renounce, one of them compearing, and renouncing, and the other alleging, that the pupil was not sufficiently authorised in this process, the allegiance was repelled, and process sustained.

Fol. Dic. v. 2. p. 383. Durie.

* * This case is No. 8. p. 1349. *voce* BASTARD.

1634. *February 22.* DAVIDSON *against* JACK.

No. 86.

A DISCHARGE granted by three or more tutors jointly, makes each of them liable *in solidum* to account for the money.

Fol. Dic. v. 2. p. 383. Durie.

* * This case is No. 45. p. 506. *voce* ANNUAL-RENT. The like, with regard to curators, 11th February, 1630, Guthrie *against* Guthrie, No. 17. p. 14640.

1671. *January 17.*

DRUMMOND of RICKARTON *against* FEUERS of BOTHKENNEL.

No. 87.

A tutory granted to two persons jointly, was found void by the death of either.

THOMAS DRUMMOND of Rickarton pursues a pointing of the ground against the tenants of the lands of Bothkennel; wherein the feuers alleged, No process, because the pursuer, being pupil, he is not sufficiently authorized, the tutory produced being to his mother and uncle jointly, and his mother being dead, his uncle is no more tutor, the tutory being granted to them, and bearing expressly to them jointly. It was answered, That, in tutories, curatories, executories, the death of one person doth not evacuate the office, but it accresces to the rest.

The Lords found, That, in respect of the tutory bearing to two *conjunctim*, the death of one evacuates the office; nevertheless, they declared that they would give a curator *ad hanc litem*, to authorize the pupil, but that none could uplift or discharge, till there were a new gift of tutory.

Fol. Dic. v. 2. p. 384. Stair, v 1. p. 704.

* * Gosford reports this case :

In a pursuit at Rickarton's instance against the feuers, for payment of an annual-rent, wherein he was infeft, and at her mother's instance, for her interest,