

1629. November 13. DONALDSON against ———.

No. 110.

Donaldson, tutor dative to a pupil, intents a summons against him, to hear and see curators given to him by the Lords of Session for authorising his pupil to defend in certain causes which the tutor had intented against him, which might not suffer delay. The Lords ordained the tutor first to condescend upon the actions; which being done, the Lords found the summons relevant; and because the pupil had no friends in the country, ordained the tutor to give up a list of certain friends to the pupil, that out of them the Lords might nominate curators to the minor.

*Auchinleck MS. p. 245.*

1629. December 17. CARNOUSIE against TEKMUIR.

No. 111.

Where tutors dative testamentar are summoned expressly, it is not necessary to summon these tutors at the market-cross.

*Auchinleck MS. p. 245.*

1630. January 15.

BAIRD (OR DUFF) and FORREST against MR. WILLIAM CHALMERS.

No. 112.

It was found between the children of Alexander Duff and Mr. William Chalmers, their tutor, That notwithstanding there had been sundry actions of the pupil's pursued in his name as tutor to them, with others, yet he might renounce his office *re integra*, having never meddled in their business.

*Spottiswood, p. 347.*

\* \* Durie reports this case :

The relict, as tutrix to her bairns, pursuing two other tutors testamentary to accept the office, or renounce; and they compearing, and offering to renounce; and it being answered, that *res non erant integra*, because there were sundry pursuits moved at their instance, as tutors to these minors, against their debtors, wherein sentence was given at their instance, whereby they had accepted the office; the Lords, notwithstanding of these sentences, found, that they might renounce the office, seeing they had never accepted the office, nor made faith, nor compeared in judgment, nor meddled with any of the minor's goods, nor knew of these pursuits, nor gave any warrant, either by word or writ, to any advocate to compear for them. And it was found, that the inserting of their names in these pursuits, being done without their knowledge, was not an acceptation of the office, but that notwithstanding thereof they might renounce.

*Act. Baird.*

*Clerk, Hay.*

*Durie, p. 480.*