

MINOR NON TENETUR PLACITARE.

1735. February 5.

INVERCAULD *against* FARQUHARSON.

MINOR NON TENETUR PLACITARE holds in rights of servitude as well as of property when contained in his infeftments: but the pursuer may declare the property notwithstanding any personal right without infeftment, and notwithstanding the predecessor's possession upon that right.

No. 1

1744. June 26. DOUGLAS *against* ANDREW INGLIS.

MINOR NON TENETUR PLACITARE sustained for a minor whose father died infeft, though only base of his author and in possession, though his brother had an heritable bond upon which he uplifted the rents after his death, but during his life he had uplifted them upon a factory, he having gone to the West Indies, but the factory fell by his death, and therefore he used his bond; and that defence was sustained against the reduction and improbation, no particular writ being quarrelled as false, but not against a declarator of non-entry.

No. 2

1749. February 13. KATHERINE CRAIG *against* STRANG.

MINOR NON TENETUR PLACITARE sustained where the predecessor's infeftment was originally an improper wadset 1694 with infeftment in 1696, redeemable at any of three different terms, *proviso*, that if it was not redeemed at the last term, which was in 1701, it should be irredeemable, and the wadsetter attained possession in 1705 upon a removing, and possessed ever since as his irredeemable property; because the infeftment being *ex facie*

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irredeemable, and could only be made redeemable in equity, they thought the minor not obliged to enter into the dispute; and the President and others thought that it was not at all redeemable, and that it would be more for the minor's advantage to wave the privilege, and to have the point of right determined. This first found by Drummore, Ordinary, after knowing our opinions on a reclaiming bill against a former interlocutor, repelling the defence, which we remitted back to him, 13th January 1747, that he might alter, which he did; and after two reclaiming bills we adhered, 24th June 1748, 13th February 1749.

See NOTES.