

But, where these exceptions take not place, it stands to reason, that pupils should not be excluded from the evidence of those who must be better acquainted with all transactions relating to their affairs, than any others who have themselves no interest of their own at stake, and who are given by the law to minors for their benefit, not to exclude them from any benefit they might otherwise have.

“ The Lords allowed the tutors to be examined.”

Act. Dalrymple.

Alt. George Brown.

J. D.

Fac. Coll. No. 144. p. 215.

1756.

CAMERON *against* MALCOLM.

No. 192.

In a declarator of marriage brought by the man, and a declarator of freedom by the Lady, the mother and sister of the latter were received as witnesses in her behalf. The man, however, had made a sort of appeal to the evidence of the Lady's mother. Besides, the counter-action went on the allegation of the crime of abduction.—See APPENDIX.

* * This case is mentioned in Dalziel *against* Richmond, 10th July, 1790,
infra, h. t.

1757. June 27.

GAVIN BEUGO *against* JOHN BEUGO.

No. 193.

Gavin Beugo brought a process against his brother John, for destroying a deed executed by their father in Gavin's favour; and to prove the fact, cited their common brothers and sisters as witnesses. From the examination of two of the brothers and sisters, and some other witnesses, the fact came out, as alleged by Gavin, pretty clear; and that the brothers and sisters had been assisting in destroying the deed; for which reason, Gavin dreading the evidence of the other brothers and sisters, stopped short in his proof, and declined examining them.

Common brother rejected as a witness.

John insisted to have the brothers and sisters examined, as having been once cited, and being equally relations to both parties.

Answered: Brothers and sisters may be witnesses against, but not for a defender; and, from the evidence already brought, it appears the witnesses now insisted for have an interest to swear falsely.

“ The Lords having advised the proof already adduced, refused to allow the other brothers and sisters to be examined.”

For Gavin, John Dalrymple, Craigie.

Alt. Miller, Lockhart.

J. D.

Fac. Coll. No. 31. p. 55.