

1669. *June 24.*

Anent WADSETS.

IN a debate betwixt ——— and ———, found that a ratification of a wadset, made before the act of Parliament anent debtor and creditor, is in effect a new wadset, and has that same effect in law that a wadset made after the act of Parliament has. For it is clear by the act of Parliament it is only understood of wadsets preceding the same; and that parties may take proper wadsets after the act, without any hazard of being countable for the superplus of the rents more nor exceeds the rent of the money, as formerly was in use before the act of Parliament.

*Act. Sinclair. Alt. Lockart.**Advocates' MS. folio 60.*1669. *July 1.*

Anent TUTORS.

THE Lords found a tutor not liable in diligence to his pupil for sums belonging to the pupil, whereof the debtors are responsal, nor yet for annualrents of the annualrents of the principal sums, after the expiring of the tutory, providing the debtors be *solvendo*; for it is thought the pupil's advantage that the sums lie in a responsal man's hand, or that the tutor meddle not therewith, who may either misemploy it or become weak himself.

*Advocates' MS. folio 61.*1669. *December 1.* MAITLAND of Pitreichie *against* The LAIRD OF GEICHT.

MAITLAND of Pitreichie pursuing a recognition of the Laird of Geicht's estate; ALLEGED, the defenders purchased rights of that estate, according to the laws then in force, *viz.* an act of Parliament made in 1641, (it is the 58th act,) whereby vassals of wardlands were permitted to subinfeudate their wardlands, without the superior's consent, and yet not incur recognition; which act, though rescinded after in 1661, yet being *in observantia* at the time, and long thereafter, the defenders are sufficiently secured from this pursuit of recognition.

REPLIED,—That the Parliament, wherein that law was made, being declared void, and to have had no authority; that law could never defend against this pursuit; for there is a difference betwixt rescinding a particular statute made by lawful authority, and a rescinding the authority itself.

The Lords repelled the defence, and did recognosce. But they were equal in voices, and the President's vote did cast the balance. This might be convelled hereafter. [*See 8th July, 1671, thir same parties.*]

*Act. Lockart. Alt. Cunyghame.**Advocates' MS. folio 61.*1669. *December 12.*KIRK *against* HAY.

IN this case the Lords sustained a pursuer's oath in supplement, taken by the commissaries, in a cause wherein there was only one singular witness, albeit the case was not a spulyie.

*Act. Dinmuire. Alt. Leirmont.**Advocates' MS. folio 61.*