

1670. *February 5.*TUTOR of COLZEAN *against* The NEAREST of KIN of the PUPIL.**No. 165.**

Extent of discretionary powers of a tutor to allow abatement of rent.

The tutor of Colzean having cited the nearest of kin of his pupil, to hear and see it found and declared, that the pupil's lands were set too high, and could not be kept at these rates, and that the tenants were in arrear before his tutory in great sums, which, if he should exact, would cast the land waste; and that it was for the good of the pupil, to set the land at lower rates, which it might be able to pay, and to quit so much of the arrears, as the tenants might pay the rest, and be able to continue and possess;

There being no compearance, the Lords gave commission to certain gentlemen in the country to examine the rate of the land, and the conditions of the tenants, who have reported several of the rooms to be too high set, and what ought to be given down, and what behoved to be quit to each tenant, that was deep in arrear, to enable him to pay the rest, and labour the ground.

The Lords approved the report, with these qualifications, *first*, That the tutor should discharge nothing simply, but only till the pupillarity was past, that himself and curators might then proceed as they saw cause, and that the tutor, before any abatement of the rooms, should cause make intimation at the market-cross of the jurisdiction, and at the parish church, that such lands was to be set at such a place, such a day, and whoever bid most for them, being sufficient tenants, should have them, and that at the said day, if a better rate was not got, the tutor might then, or thereafter, set at the rates contained in the commission.

*Stair, v. 1. p. 668.***No. 166.**1670. *February 24.* APPLECIRTH *against* LOCHERBY.

A discharge granted by a tutor of all preceding duties, but the receipt bearing only one year's duty, was found to liberate from the pupil, convening the party near 30 years thereafter, reserving only action against the tutor.

*Gosford. Stair.*\* \* This case is No. 46. p. 13466. *voce* REDEMPTION.1670. *July 19.* MARGARET SCRIMZEUR *against* ALEXANDER WEDDERBURN of Kingennie.**No. 167.**

A tutor testamentary de-

Umquhile Major William Scrimzeour having nominated Alexander Wedderburn of Kingennie, and two others to be tutors to his daughter; she now pursues