

the years that the pursuer was entertained in the curator's family so high, as that he got allowance of 100 merks yearly upon that consideration. No. 207.

*Harcarse, No. 976. p. 276.*

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1683. *February.* **TOLQUHOUN** *against* **SIR DAVID THORIS.**

No. 208.

Found that one having acted as pro-tutor, by taking the pupil into his family, managing his affairs, and intending a process before the council, for recovering the pupil back to his family, from some persons that had seduced him away, he, the pro-tutor, could make no advantage by a gift of the pupil's ward and marriage he had got, but was obliged to denude thereof upon re-payment of the sums he paid for it. In this process the import of curators authorising their minor, not jointly by signing together *unico contextu*, but separately, was debated, but received no interlocutor.—See No. 216. p. 16308.

*Harcarse, No. 977. p. 276.*

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1684. *January.* **VISCOUNT OF OXFORD** *against* **HIS CURATORS.**

No. 209.

Found, that when a pupil's tenants are not able to pay the by-gone rents before the tutory, and the current rents, the tutors may forbear to exact what the tenants cannot spare without hazard of laying waste the lands by the tenants being disabled; albeit it was alleged by my Lord Oxford the pupil, that there was no fear of casting the lands waste, for that other tenants, able to pay the rent, would have been got; but here the curators had been so cautious as to procure a precognition by warrant of the Lords, conform to which they had acted when their pupil was abroad.

*Harcarse, No. 978. p. 276.*

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1684. *January.*

**THE TUTOR OF LUDE** *against* **THE LAIRD OF LUDE** *and* **HIS CURATORS.**

No. 210.

In a tutory account, the Lords found, that the tutor might consume the flying customs, viz. hens, capons, and chickens, (not geese) without being liable to his pupil for the value; and likewise they allowed him some stones of butter yearly, in respect he being tutor in law, and living in a different shire from where the pupil's estate lay, had frequent occasion to come there to manage the pupil's affairs.

*Harcarse, No. 979. p. 277.*

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1684. *November 12.* **—————** *against* **CUNNINGHAM.**

No. 211.

The writer of a testament was named therein tutor-testamentary, having, without confirming or protesting against any acceptation of tutory, procured a gift of his