

The Lords did not think the obligation, that the agnate should exercise the office, implied that he should complete his title, by retouring the service; but supposing that done, that he should faithfully administer.

No 50.

“ THE LORDS found the defender not liable.”

Act. Haldane.

Alt. Lockhart.

Clerk, Justice.

Fol. Dic. v. 4. p. 232. D. Falconer, v. 2. No 16. p. 18.

\* \* \* Kilkerran reports this case :

THE LORDS were of opinion, that where a tutor of law is served, it is the duty of the clerk to the service to take the bond of caution.

Yet where, as the fact was in this case, the service was never retoured, nor any gift of tutory expedite, although the tutor proceeded to administrate, and in the event became insolvent, after having dissipated the pupil's effects; the clerk was not liable in damages on account of his neglect to take the bond. And the Court was farther of opinion, that though a bond had been taken, yet if the service was not retoured, and gift expedite, the cautioner would not have been liable. See TUTOR AND PUPIL.

Kilkerran, (TUTOR AND CURATOR.) No 12. p. 589.

1756. December 3. AITKENSON against EVAN M'BEAN.

No 51.

In a complaint against a messenger for neglecting or delaying to put a caption in execution, the COURT found him liable for the debt, as the proper reparation to his employer for the damage occasioned by his neglect of duty.

Sel. Dec. No 120. p. 172.

1757. January 4. GOLDIE against M'DONALD.

No 52.

THE LORDS found an agent liable in damages, who being employed to expedite a confirmation, neglected it till his client died, by which means his widow sustained a loss of L. 212 Sterling.

Fol. Dic. v. 4. p. 232. Fac. Col.

\* \* \* This case is No 64. p. 3527., voce DILIGENCE.

1770.

M'HARG against M'LAMERICK.

No 53.

WHERE the damage arises solely from error in judgment in nice or difficult cases, the claim of reparation is not easily admitted. M'Harg, a writer, brought action for payment of expenses laid out by him in making up titles for