

off by the decennial prescription of tutors' accounts. Neither was the force of this removed by the answer made to it by the pursuer, that, if the decennial prescription operates against him, it must equally operate against the defender; for it ought to be observed, that the debts upon which the decret of adjudication was pronounced did not arise from the balance of the tutorial accounts, but was composed of claims founded upon extraneous grounds of debt, and sufficiently authenticated.

No 342.

The Court, in giving their opinions upon this cause, seemed to lay the principal stress of their reasoning upon the proof that was brought of Mungo, father to the minor, being in labouring circumstances, and having died in a condition not to pay his debt, and upon the excessive burdens which were proved to affect the estate during the minority of the pupils, and the administration of the defender's predecessors, which they seemed to be of opinion were sufficient to elide the ordinary presumptions in laws established in such cases.

"The Court repelled the reasons of reduction; but found the defender liable to account for his predecessor's intromissions." See TUTOR and PUPIL.

A. G.

*Fol. Dic. v. 4. p. 130. Fac. Col. No 16. p. 27.*

1765. November 20. SYMON against MACDONALD.

JAMES MACDONALD of Kinton granted an obligation to John Symon, in these words: "I hereby oblige myself to dispoze two ox-gates of the west side of Micrass to your son, when you shall think fit; or to pay him 1800 merks, as to me shall seem proper."

No 343.

The son was minor at the time; and, before his majority, the father gave a discharge of the obligation, bearing, that the 1800 merks had been paid to himself and his creditors.

In an action brought by the son, "the LORDS, found, that the father's discharge, bearing payment of the said price to himself, and his lawful creditors, is a sufficient document of payment."

Act. *Crosbie.*Alt. *Hay Campbell.*

G. F.

*Fol. Dic. v. 4. p. 131. Fac. Col. No 20. p. 236.*

1767. ———. STRAITONS against STRAITON.

No 344.

ROBERT STRAITON died, leaving a son, George, and three daughters. George went to Jamaica as a mariner in 1763. In 1767, the LORDS, on application of one of the sisters, sequestrated the land estate left by the father; and the factor pursued the other sister and her husband, who were in possession of part of