

remitted to the Lord Ordinary to proceed accordingly; and found Alexander Scoular liable in the expense of extracting the decret." No. 289.

Act. R. Dundas.

Alt. Lockhart.

Clerk, Kirkpatrick.

Fac. Coll. No. 108. p. 193.

1758. January 10. CRAGIE, Petitioner.

A factor *loco tutoris* applied to the Court, for directions and authority in making certain purchases of land. The Lords remitted to the Ordinary to enquire into the facts set forth in the petition, and afterwards, upon report, authorised the factor to make these purchases.

No. 290.

Sel. Dec. Fac. Coll.

* * * This case is No. 179. p. 7455. *voce* JURISDICTION.

1758. August 2.

CHILDREN OF DUNCAN FISHER *against* Their Tutors and Curators.

Duncan Fisher executed a nomination of tutors and curators to his children in the following terms: "I do nominate and appoint James Fisher, my father, Margaret Macneil, my spouse, during the widowity of the said Margaret Macneil, *allearly*; and failing them by death, Donald Macneil of Collonsay, Angus and Alexander Macneils, James Campbell writer, James Campbell of Oib, James Campbell of Raschilly, any two of them being a quorum, curators and tutors to Angus, James, and Barbara Fishers, my children, &c. with full power to them, or their said quorum, to manage my said children their persons and estate," &c.

No. 291.
Quorum of
tutors and
curators.

Duncan Fisher having died, and also James Fisher, who, with the wife, was named tutor in the first place, a question occurred, Whether, by the death of James, the first nomination was vacated, so as to make place for the second nomination? or, Whether, on the other hand, the wife was entitled, under the first nomination, to act alone?

"The Lords found, That the first nomination of tutors and curators has not failed by the death of James Fisher."

Reporter, Colston.

Fac. Coll. No. 131. p. 243.

1759. February 16. SCOTS *against* ELIZABETH SCOT.

A gentleman, by a deed executed some time before his death, nominated and appointed his relict, her father, and her two brothers, and another gentleman, to

No. 292.
Whether the
mother or
the tutors of