

after the tutory should compensate with the sums acclaimed by the minors *pro tanto*, and would not put the tutor to any further process to pursue an action therefore against the minor or his curators, but found it might be received in the same process to compensate, *ut supra*.

Act. Stuart.

Alt. Lawrie.

Clerk, Hay.

Durie, p. 45.

No. 84.

1623. March 6.

STEVENSON against STEVENSON.

No. 85.

In the action Stevenson against Stevenson, No. 36. p. 13268. where the Lords found that the sasine could not be drawn back, it was replied for the pursuer, that the defender could not quarrel the title, because he was his tutor, who of the law was holden to have obtained the pursuer in due time seised as heir to his predecessor. Duplied by the defender, that he was not bound to serve the pupil heir, to evict the lands against himself; moreover, the precept and sasine, which was the title of the removing, is procured many years after the expiring of the years of the tutory, and after his pupillarity, so that whatever fault is therein, cannot be imputed against the defender, who was not holden to answer for any deeds done thereafter; and if any had been omitted within the time of his tutory, which is not granted, he had against him of the law, *actionem tutelæ*. The Lords found the defender being once tutor, could not quarrel the pursuer's right, albeit the tutory was expired, and albeit he defended himself with a right in his own person acquired before he was tutor.

Durie, p. 56.

1623. March 7.

LORD BARGNEY against HIS CHILDREN.

No. 86.

A father may pursue his son having curators *ad lites*, although he be administrator in law to him.

Durie.

* * This case is N. p. 94. 10418. *voce* PERSONAL and TRANSMISSIBLE.

1624. March 17.

L. TOUCH against TENANTS of DUNGLASS.

No. 87.

In an action pursued by the Laird of Touch, as assignee constitute by William Hume, Provost of Dunglass, to the duties of the Provostry, addebted to him, against the tenants intromitters, and addebted in payment of the said duties, the Lords found the payment made of the said duties by the tenants to the Earl of Hume, who was father to the Provost, for he was a bastard and a natural son to the Earl.

A father is administrator for his bastard son.