

nor. It oft-times proves no wisdom nor prudence to nominate many tutors to pupils, for each puts off to another, and they neglect, as all things in common are; and one who is faithful will go more commodiously about the management of it than many can do; whereof we want not examples to convince us of the truth of it. *Vide* § 1. *Instit. De Satisfat. Tutor.*

Tutors, curators, factors, and other administrators, as also creditors, appraisers, wadsetters, and the like, ought not to give down any of the rent they find; but if the tenants refuse to stay at that rent, then they are to fix placards on the church doors, or intimations in the church, or tickets on bargage-houses, and endeavour to get a tenant at the old rent; and if, after all this diligence, they cannot get it set at the old rent, then they may set it as they can best agree, (first offering it to the debtor upon caution,) though it be for less, rather than suffer the ground to stand waste; or raise a process before the Lords to name commissioners to try the rents. See TUTOR and PUPIL.

1680. *June 24.*—IN the action James Cleland against Lamington, which resolved into a curator-accompt, (27th Jan. 1680.) Newton having reported two points debated there, they found, contrary to Newton's own opinion, "That the minor is not obliged to prove that the writs were in the charter-chest the time of the curatory, but that the same is to be presumed, unless the curator offered to prove that the charter-chest was searched, and these bonds and other instructions not found therein; and allow that to be proved by witnesses who made inventory of the writs, or searched the charter-chest, or were present at the searching of it; and allow James Cleland by a diligence to cite the rest of the curators. And as to the other point about the executry, the LORDS, before answer, ordain Lamington to condescend, if during the time of the curatory he was distressed for any debts whereof he might have had relief of the executry, if his curators had confirmed him."

Fountainhall, v. 1. p. 53. 67. 77. & 104.

1680. *January 7.*

JAMES M'BRYDE against My LORD MELVILL and his SON DAVID.

IN this case a *practique* was cited, 9th November 1672, Peirson against Crighton, No 80. p. 2672. where the LORDS refused compensation to a chamberlain upon a bond of the constituents, to which he had taken an assignation *ante redditas rationes, vide legem 8. C. De Compensationibus.*—THE LORDS refused to sustain this declarator till his cedent should make up his chamberlain accounts.

Fol. Dic. v. 2. p. 51. Fountainhall, MS.

*** Stair's report of this case is No 15. p. 2561. *voce* COMPENSATION.