

No. 259. The Lords sustained that qualification of the libel relevant to remove the defenders from their office, viz. That they entered into the management of and intermitted with their pupil's means and estate, without making up inventories in the terms of the act of Parliament 1672, and found it proved; and therefore removed the defenders from their office, and declared the tacks of the lands set by them should end at Whitsunday next, &c.

Act. *A. Murray.*

Alt. *H. Dalrymple, sen.*

Clerk, *Mackenzie.*

*Edgar, p. 8.*

1725. *December.* EARL OF BUTE and M'KENZIE *against* CAMPBELL.

No. 260.

A discharge granted by a curator, without concurrence of the minor, found not to give liberation to the debtor, it being pleaded, That the deeds of a curator, without consent of his minor, are equally void as deeds of a minor without consent of his curator.—See APPENDIX.

*Fol. Dic. v. 2. p. 487.*

1727. *July 25.* CUNNINGHAM of Enterkin *against* His CURATORS.

No. 261.

One cannot quarrel his curators for concurring with him in a deed which he omitted to revoke *intra annos utiles.*

Enterkin having insisted against his curators for damages and interest, as consenters with him in a deed, whereby he pretended to be enormously lesed, the curators' defence was, That he had not revoked or reduced the deed *intra annos utiles*; and as he could not now insist against the person in whose favours the deed was granted, neither against the curators, who consented to it.

Answered for Enterkin: He is not in an action of reduction against those who were benefiteres by the deed in question, but in an *actio directa tutelæ* against his curators. These are different actions, having no connection or dependence one upon another; the one *must* be insisted in within the *quadriennium utile*, the other *may* any time within the long prescription.

Replied for the curators: Enterkin cannot quarrel them for concurring with him in a deed which he never revoked. The curators cannot be liable if he was not lesed; and if he has not revoked, the law presumes *præsumptione juris et de jure*, he was not lesed.

“ The Lords found the curators not liable, Enterkin not having duly revoked and reduced *intra annos utiles*.

*Rem. Dec. No. 98. p. 191.*