
ANNUALRENT due by TUTORS and CURATORS.

1667. July 9.

STEVIN against JOHN BOID.

No 35.
Tutors and curators have a year after admission, to uplift and re-employ the minor's money, not bearing annualrent; after which, they are themselves liable for annualrent.

IN a tutor count at the instance of Stevin against John Boid, these queries were reported by the auditor, and determined by the Lords:—*1mo*, How soon a tutor was obliged for annualrent of the defunct's bonds, that bare no annualrent.

THE LORDS found that the tutor behoved to have a competent time to uplift and re-employ these fums; for which they allowed him a year; and that he was liable for annualrent after that year.

2do, How soon a tutor was obliged to do diligence to uplift his pupil's means, so that if the debtor became irresponfable, the tutor was liable?

THE LORDS found, That if the pupil's fums were in the hands of debtors, unquestionably *solvendo*, the tutor was not obliged to lift the same, unless the condition of some of the debtors, or cautioners, became worse; at which time he was obliged to do all diligence for uplifting the fums, unless the debtors became to be known to be altogether broken upon a sudden, which he could not foresee.

3tio, What diligence a tutor was obliged to do, Whether horning was sufficient, or if caption, poinding, and apprising, were necessary?

THE LORDS found, That in different cases, different executions were requisite, viz. If the debtor were known to have lands apprifable, or goods poindable, or fums arrestable, that the tutor was obliged to do diligence accordingly; and if not to use personal execution.

4to, Whether the tutor should have allowance of such fums as he paid without sentence?

THE LORDS found such fums allowable, unless a competent defence could now be proponed, which was known and probable to the tutor at the time of payment. (See TUTOR and PUPIL. See DILIGENCE prestable by Tutors and Curators.)

Foi. Du v. 1. p. 39. Stair, v. 1. p. 471.