

Subst of Tutor's - To explain the necessary powers for himself -
and the children - 2. To give a receipt for the same -
goods

L. Jury contra Lady Jury.

By the custom of France, the Mother is not deprived of the Quota
of her Children, by the bare Effect of her marrying a second Husband Les
Lois civiles. de. tom. i. part. 1. liv. 2. tit. 1. sect. 3. Art. 3.

A Tutor who has Right to the Custody of his Pupil, may pursue such as
withhold the Pupil to exhibit and deliver him up.

In England a person under the custody and Tutition of Guardians, is called
their Ward, and these have Action for Recovery of his Body, against any
Person or Persons who wrongfully take him away and detain him, called
Ravishment de gerd or Ravishment of Ward.

Upon a Tutor's Application, an Alimant will be modified to the Pupil suitable
to his Fortune and if that be omitted, the Tutor will be allowed only what
he can instruct to have expended on that Score not exceeding the Annual Income
of the Pupil's free Stock. 17 November 1800 Sandylands contra Fairby.

Dul 1. 485

Year according to the civil Law the Minor's whole Income is not
to be laid out upon his Education l. 3. s. 1. ff. ubi pup. educ. Nov. 72. cap.

The Alimant or Education of a Minor comprehends his Food and Raiment,
his Lodgings, Medicines, Salaries to Preceptors, Charges laid out on his
Studies and other Excessives: And in general, all necessary and reasonable
Expenses according to the Quality and Estate of the Minor l. 2. l. 3. s. 2.

ubi pup. educ. l. 12. s. 3. ff. de admin & pers. tut. l. ult. C. de alim. pup. pro
and the Expenses of the Education of Minors even those who have the great
Estates ought to be moderated l. 3. s. 3. ff. ubi pup. educ. ff. the Minors
have no Estate or has not sufficient for his Maintenance, the
Tutor is not obliged to contribute any thing of his own towards it. d. l. 3.

s. ult. For the Office of a Tutor consists only in the taking such care as the
Administration of the Minor's Concerns may demand.

Minors must be authorized by their Tutors or Curators in all Actions of Law active
and passive, wherein they are either Pursuers or Defenders. A Tutor pursuing
an Action in his Pupil's Name, is regularly bound to produce the writ constituting
him Tutor as his Actio. Actio. viz. the Testament or other writ of Nomination
if he be a Tutor Testamentary; the Report of Chancery if a Tutor of Law; and his
Majesty's Gift in Exchequer if a Tutor. A Curator must produce his Act of
Tutary intelling him to authorize the Minor. But a Decree in Fero was not
annulled, for being obtained at the Instance of Tutor's Nominate acting for their
Pupil, without producing the Nomination. In Respect the pursuit was found
to be on a Decree Tutary, deeming them Executors for their Pupil, and a License
to them to pursue procured from the Commissarys, upon Production of the No-

mination, which was probatis probata, 20 January 1713 Johnston contra
Houston. In a ranking of Creditors upon an Estate, neither a Pupil nor his
Tutor were bound to depone upon the Verity of a Debt, for which the Pupil
was a Creditor by Adjudication 17 July 1707 Tutor of Gordonstown. Supplic.

- canis

The Tutor is to have the same powers as the Curator
with the power of the Curator
162

Dul 1
132

Suppliants. Minors must pursue with consent of their Curators: But the
King being out of Tutory, may without Consent of his Curators pursue a sub-
ject 20 October 1554 King's Advocate contra Margoribanks. When Minors
are pursued, it sufficeth to cite them personally, or at their dwelling-place,
and their Tutor and Curators, they any have, for their Interest, general-
ly without naming them 8 March 1626 E. Kinghorn contra Wallace,
at the Market Croft of the head Burgh where the Minor dwells 26

July 1625 L. Romhiller contra L. Tutor. Process was sustained against a
Minor, albeit his Tutor who was out of the Kingdom, was not cited upon
60 and 15 Days, nor yet editally at the Market-Croft of the head
Burgh where the Minor's Land lay, and the Summons was inrolled
only against the Minor: in Respect the Minor was personally cited, and
his Tutor and Curators were cited editally at the Market-Croft of the head
Burgh where the Minor dwelt, and it was needful to inroll against Tu-
tors, who are called only pro interesse, and concluded against in the Libel.

as Tutor in general 29 July 1710 Fairholme contra McKenzie of Aspirit.
But a Decree against a Minor and his Curators not cited with him in in-
libis, upon the inducie legales of two Diets but ex post facto cited only cum
processu upon two Days warning was turned into a Libel 28 December 1705

Cap. Gavin contra Montgomerie of Shelmorly. The Oath of a Tutor is sustained
to prove against his Pupil the Tutor's own Fact, as the Quantity of Rents intro-
duced with by him in the Pupil's Name. But the Tutor cannot be held as
confest thereon for refusing to depone as a Party, for he must be put to it
by Horning and Caption as a Witness. 27 June 1665 Cent contra Loch.

Nor was a Tutor's Oath received to prove against the Pupil an Agreement
made by his Father 7 December 1664 Eccles contra Eccles Stat lib. i.
tit. 8. 20. that not being the Tutor's proper Fact. A Bond payable to two
Curators nomination, for the Use and Behoof of their Pupil in Copartnership
of a Disposition granted by these Tutors of some Moveables, to

their Pupil, being assigned to them after Majority: it was found that the
Debtor could not prove payment by Oath of the surviving Tutor one of
the Cedents, the other being dead, and both officio functi 16 July 1707 Wed-
dells contra Waddelston. But in singular and circumstantiated Cases,
the Lords use ex officio before answer, to take the Oaths of Tutors
even against their Minors February 1662 Lady Fairme contra L.

Melvil January 1666 Hay contra Ogston Observed by Gilmoir.
Tutors and Curators may be decerned against with their Pupils either in
general for their Interest without being expressly named and designed,
or may be specially decerned. Upon a Decree against Tutors
decerned only in general for their Interest personal Execution lies against
them during their Office to perform Deeds prestable by the Nature thereof, as

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