

How far Tutor bound to receive  
for interest thereon

belonging to an illustrious Familie, or Sets of Houses and other things necessary to the Person or Estate of the Minor; Care ought to be taken in these and the like cases, to reserve such kind of things according as the Quality of the Minors the Use of such Moveables and other Circumstances may require l. 22. C. de admiv. tut. Les Loix Civiles, ibid. Art. 1. By Justinian's Novel Constitution (Nov. 72. cap. 6. 7. authent. novis in C. de admiv. tut.) Tutors or Curators were not bound to lay out their Minors Money upon Interest, unless the Minor had no other way to subsist: it sufficed to lay it carefully up by them and to preferre the Stock int're. But the more ancient Law of the Pandects obliged to for Annuelrent of the Minor's Money, after it had been two Months in their Hand l. 7. §. 11. ff. de admiv. & peric. tut. And from the Time of receiving the same, if they converted it to their own Use d. 6. ii. et seqq. Because *nummi minorum non debent esse stiosi.*

For understanding how by our Law Tutors and Curators are obliged to lay out Minor's Money upon Interest, we must distinguish Money and Effects belonging to the Minor before the Tutory and Curatory, from Money or Effects becoming his during the Office.

Money due or belonging to the Minor before the Tutory or Curatory, if then being Annuelrent must be <sup>recept</sup> always employed upon Interest; otherwise the Tutor or Curator will be liable for Annuelrent of <sup>the</sup> Lying Money or Sum in specie, or Money due upon Account or simple Ticket not bearing Interest 9 July 1667 Stewin contra Boyd of Annuelrents resting before the Tutory or Curatory 27 Feb. 1673 Douglas contra Gray are to be laid on Interest within a Year after the Tutor or Curator's Acceptance of the Office. In like Manner if a Tutor or Curator be Debtor to the Minor before Commencement of the Office by Bond bearing Annuelrent, he must continue it so and Account for Annuelrent; if Debtor by Account or Ticket not bearing Annuelrent, he is liable for Annuelrent after elapsing of a Year from his Acceptance of the Office: it being the same thing with respect to him as if he had received the Interest from another Debtor.

As to Money or Effects falling due to the Minor, or becoming his during the Tutory or Curatory, the Money Rent of Lands should be put out within half a year after it falls due 27 June 1600 Spence and Wilson her Husband contra Foulds of Ratho and virtual Rent within a Year <sup>July</sup> 1665 Boyd contra Kentore in so far as the same are not otherwise necessarily expended for maintaining the Minor, paying his Debts and the like *Hope de herede frame contra brichton l. 1. tit. 6. §. 19.* The Reason for making Annuelrent sooner due for the Silver Rent of Lands payab during the Tutory or Curatory, than for Interest of Money due before the Tutor or Curator's Acceptance of the Office, is because Money uses to be lent to able and responsible persons, whereas Tenants of Lands are often

The Manner of the paper & how far accountable  
(2) Distinction in this respect between Curators & Tutors

often poor and the Rents are in Hazard of perishing in their Hands. A Year is also ~~not~~ allowed to reemploy principal sums uplifted by Tutors or Curators *M'henzie Inst. lib. 1. tit. 7. §. 20.*

Tutors are obliged only to take in the <sup>Minor's</sup> Annuelrents, out of secure Lands, and stock them in a principal Sum once during their Office bearing Interest from the expiring thereof 27 January 4 July 1665 Kentore contra Boyd 9 March 1664 Lockhart contra Elliot 27 June 1600 Spence and Wilson contra Foulds of Ratho. For the most provident Men are not able to call for and reemploy their own Annuelrents yearly: seeing <sup>the</sup> Interest of Money is not for the most part so punctually payed, as the Rents of Lands which cannot without great Hazard remain long unemploy'd from Tenants; and where Debtors are responsible, Creditors are loth to discharge them by so only craving their Annuelrents. Thus a Tutor was found liable for Annuelrent of the Pupils Money run on unemploy'd during his Office, and not allowed to discharge himself therewith as yet resting in the Hands of good Debtors; tho' he offered Warrantice and Caution that they were not uplifted: in respect warranting the same to be still resting, doth only found a second plea to the Minor upon the Tutor's Warrantice. But the Minor was ordained to furnish him with the Bonds, for procuring Payment of these outstanding Annuelrents 11 June 1709 Bruce Lady Redboich contra Forsyth of Garvel. But the Plea of a Tutor who died two Years before expiring of the Pupilarity, was absolved from Annuelrent of the Pupils Annuelrent 4 July 1665 Kentore contra Boyd. Because the Tutor, had not his Office been shortned by Death, might according to his Duty have uplifted the Interest and turned it to a principal Sum bearing Interest from the Due Time. Curators are not bound to accumulate their Minors Annuelrents in a principal Sum bearing Interest even from the expiring of their Office 27 June 1600 Spence and Wilson contra Foulds of Ratho. The Reason of this Difference between Tutors and Curators, is because a Minor may immediately after he attains his Majority call his Curators to account, and employ his Annuelrents as he pleases: whereas a Pupill after he goes out of Pupilarity, <sup>may</sup> call Curators, or the Curators may neglect to call the Tutor to Account. When it is said, that Tutors or Curators are not obliged to uplift the Minors Annuelrents yearly: that is not so to be understood, as to excuse their Neglect to uplift or use Diligence for receiving both principal Sums and Annuelrents from Debtors beginning to sink and fall back in the World. It was once found, that a Tutor was only liable a finiter *tutela* for Annuelrent of Annuelrents tho' yearly uplifted by him 18 July 1629 Nasmith contra Nasmith. But that Decision is now unliquidated, and when Tutors or Curators uplift the Annuelrents of the Minors Money they are bound to turn them in a principal Sum bearing Interest within Year and Day after uplifting. If Tutors or Curators were Debtors to the Minor, they behoved to count after the same Method