

Now for Tutor liable for Interest (2) Now for a father as administrator at law.

Method for the yearly Annuelrent and for employing thereof within Year and Day as a principal Sum bearing Interest. Because here the Reason of Tutor or Curators being liable to employ the Minor's Annuelrents but once during their Office ceases: and since intas habesint, they cannot pretend specifically to recover what they themselves were owing 27 June 1688 Spence and Wilson contra Foulis of Raths. Albeit Law allows a certain compulsion to Tutor and Curators for getting good Debtors to lend the Minor's Money to: yet if they make their own Use of it, they will find themselves liable for Annuelrent from the Time they received it C. 7. s. 11. 12. ff. de admira. et peric. tut. If a Tutor be indebted in his own Name to the Minor he is bound to include in the capital Stock arising from the Revenues the Interest which he himself owes for he ought to have paid it, and it is the same thing with respect to him as if he had received the Interest from another Debtor C. 38. ff. de neg. gest. Les Loix Civiles &c. tom. 1. par. 1. liv. 2. tit. 1. sect. 3. art. 24. A Tutor being cautioner in a Bond granted to his Pupil, was found liable for Annuelrent from the Term of payment of solam expationem to pay the sum albeit the Bond contained no Clause of Annuelrent, but not for any Annuelrent after expiring of the Tutor, save from the Time the Tutor was interpell'd or charged 1 July 1625 Goldman contra Goldman.

Quæritur if a Tutor be oblig'd for Annuelrent of Annuelrents due by him self before the Tutor, tho he do not employ them after his acceptance of the Office? Ratio Tutandi because usurae usurarium non debentur.

If while a Tutor, Curator has a Sum of the Minor's Money lying in his Hand to be employ'd upon Annuelrent for the Minor's Benefit, any Loss happens by prohibiting or laying down the ^{Minor's} penes redounds to the Minor, and cannot be charged upon his Tutor or Curator C. 102. ff. de solut. A Father as Tutor of Law to his Children, is liable as other Tutors for Annuelrent of the Children's Money or Goods ~~but not~~ A February 1665 Beg contra Beg. But was allowed to compensate the same with the Expence of the Child's Allment in his Family 15 December 1660 Wynrhan contra El-

his. According to the Usage in France, the Delay granted to the Tutor for employing principal Sums which he may receive by Mortgages or the like, depends on the Circumstances according to the Quality of the Sums, and the Difficulties of employing them with Safety and Advantage, as to which the Tutor is to take his precautions by the Advice of Relations. As to Sums which arise out of ^{what is} saved of the Rents, a Tutor is forc'd for accumulating them and converting them into a capital Stock such as once every three years; and a Delay of 6 months is granted for laying

Tutor cannot purchase the business property - (2) In what case a Tutor may be liable for expence in a debt due by the Tutor, having got possession of the money 170

out the said Capital in the purchase of Lands, or putting it out to Interest. And if the Tutor has not employed the Money, he is oblig'd to pay Interest for it in his own Name after the said Delays, if being presumed, that he has converted the Money to his own Use Les Loix Civiles &c. tom. 1. part. 1. liv. 2. tit. 1. sect. 3. art. 23. Tutors or Curators are not accountable for Services in Kind as Harrowings or Mearings received from the Minor's Tenants: because the Tenants could not be forc'd to pay Money for those Services 11 January 1660 Grand contra Grand.

Tutors or Curators can purchase nothing of the goods of Minors under their Charge; neither directly in their own Names, nor by the Interposition of other Persons. C. 34. s. ult. ff. de contr. empt. C. 5. s. 3. ff. de lictore cons. tut. Bond taken by a Tutor in his own Name for his Pupil's Money, may be claimed by the Minor as his ^{own} C. 1. s. 1. ff. de iur. iud. forens. part. 2. const. 11. Def. 38. Yea Lands bought by Tutor or Curators in their own Name with the Minor's Money might have been claimed and vindicate by the Owners of the Money according to the Civil Law, if they chuse not rather to repeat the Money C. 2. ff. quod. ex fact. tut. vel cur. For Tutors or Curators and their Factors ought not to apply the Pupil's Money to their own Use C. 46. s. 2. ff. de admira. et peric. tut. and are presumed presumptione juris to do what they ought to do for the Minor's Benefit. When any such thing is done it accrueh to the Minor without respect to the contrary Narrative or Preamble of the Writ Carbazov ibid. Def. 21 Stair lib. 1. tit. 6. s. 17. By Justinian's Constitution a Curator could not accept an Assignment to a Debt owing by his Minor; and if he did, he lost the Debt assigned Nov. 72. cap. 5. ff. de iur. iud. forens. that he might put a stop to attachment of the goods of the Minor C. 120. In dubio when a Tutor contracts about a thing belonging to the Pupil, he is presumed to act in his Pupil's Name, and not in his own, especially when the other Contractor is not ignorant of his Office and Quality, tho it would be otherwise, if a Tutor deal thus indefinitely in what may be thought as well to be his own as the Pupil's, as if he lent Money or buy Land, when he had both Money of his own and Money belonging to the Pupil, without signifying that he do it tutoris nomine for the Pupil's Benefit; in which case the Tutor is understood rather to act for himself, than for his Pupil Voet. Comm. ad tit. ff. quod. ex fact. tut. vel cur. r. 6.

Assignations to Tutors or Curators, of Debts due by the Minors are presumed to be acquired with the Minor's Means 24 January 1662 Kamfay contra E. Wynton. The Benefit of a Leck of a Pupil's Rents taken by the