J. 6.) and elsewhere (Perez in Tit. C. de cur. fur. Les Loix Civiles Tom. 1. Part. 1. Liv. 2. Tit. 2. Sect. 1. Art. 6.) A Husband and not the nearest Agnat will be Tutor to his furious Wife who is an Heiress. The Reason why it was so ordered by the Civil Law and is otherwise with us: is because among the Romans a Wife was not under the Power of the Husband but either under the Power of her Father, or sui iuris in her own Power, that is Master of her own Rights, and her Goods remained absolutely her own, unless made over to the Husband in Name of Tocher; who also had no Interest in the Tocher after Dissolution of the Marriage; except by Pre... de lucranda dote: This Distinction of the Wifes Goods from the Husbands made it reasonable to exclude him from the Office of Tutor of Law to her if she become furious; quod difficile posita esset ab ea rationes exigere. Because it were inconvenient to make the Husband accountable to his Wife: Which Reason holds not in Scotland, where Wives are under the Power of Husbands, and all their Movables belong to them jure mariti.

Where the next Agnat serves not himself Tutor and Curator of Law to an Idiot or furious Person a Tutor or Tutors Dative may be appointed by the Exchequer, as a Kind of Curators ad lites, or by to supply the Want of Tutors and Curators of Law. Thus Process was sustained upon a Gift from the Exchequer of the Curatory of a furious Person against his Debtor, the Curator finding Caution to make the Debt forthcoming to the nearest Agnat of the Madman, when he should serve Curator 21 January 1663 Stewart contra Spreuel. The Barons of Exchequer may grant Tutors or Curators Dative to Idiots and furious Persons, both where the Idiotry or Furiosity is declared by an Inquest and the Tutor of Law neglects to serve; and where it is not declared, and there could not be a Tutor of Law McKenzie Ibid. One who got a Gift of Tutory Dative to a fatuous Person, while his nearest of Kin was Minor, was found not liable tutorio nomine, after he was exauctorated by the Tutor of Law's coming in his Place; unless he had the Pupil's Effects in his Hand 14 December 1711 Bonnar and Swynton contra Maxwel.

The Office of a Tutor and Curator to an Idiot or furious Person expires not when the Person under his Tuition comes to have lucid Intervals (tho he cease to exercise his Function in the said lucid Intervals) but it lasts during the Life of the Person that is mad, or till he fully recover his Senses l. 6. C. de cur. fur. 14 June 1587 Agnew contra McDowal of Garthland. To avoid the Trouble of naming a Tutor and Curator at every new Fit of Madness. Deeds done by a furious Person after full Recovery of his Senses, are valid without a Declarator of Convalescence

Tit. 2.

[redacted]

Those who because of their bad conduct are forbid the Management of their Affairs.

It being the great Interest of a State that no Man abuse even what is his own; all polite and wise Nations have taken care to hedge in extravagant Persons, and to keep them from debording into Luxury and riotous Spending. By the Civil-Law Curators were given to Prodigals or Spendthrifts §. 3. Inst. de curat.
who know no end or Measure in their Expences but wast and squander away their Estates
[redacted] l. 1. pr. de cur. fur. and as to these [redacted] make a furious exit. Upon which Account the Magistrate tied up their Hands and interdicted them the Administration of their Estates l. 10. ff. eod. l. 40. ff. de reg. jur. Hence our Law-Term of Interdiction arose. Which among us is the Curatory of Prodigals, tho' they be of full age, [redacted], contrived for the Preservation of Families.

Interdiction is either Voluntary or judicial.

Voluntary Interdiction, is a Writ whereby a Person sensible of his own Extravagance or Mismanagement, obliges himself to do nothing, without Consent of some Friend or Friends therein mentioned, called Interdictors 11 December 1622 Seaton and Ellies contra Creditors of Acheson. Which Manner of Interdiction is allowed, because many Persons will of their own Accord submit to a Restraint upon their Administration, if they see Reason for it, who cannot be induced to own their Weakness before a Judge. Such a Bond of Interdiction, made by a Person who wants the Solidity requisite to negotiate his own Affairs, is good, tho the Granter's Incapacity be not flatly narrated, Because weak and willful Persons are seldom willing expressly to own and declare their Levity and extravagant Rashness. Thus an Obligation not to contract Debts or to dispone, without Consent of two or three Friends named, or their Heirs being Majors at the Time, for the preservation of an ancient Estate, without Mention of Levity and Weakness, but only that the Granter needed the Advice and Help of Friends, to preserve his Family: was sustain'd as an Interdiction; it being instructed, that he was weak and notourly insufficient to manage his own Matters 10 November 1676 Stewart contra Hay of Gourdie. But the raising Inhibition upon a Bond, whereby a Husband narrating his own Facility, obliged himself not to dispose of his Wife's Liferent, without her Consent lest by his Mismanagement both should be reduced to Want and Misery; was not sustain'd as an Interdiction: it being inconsistent, contra bonos mores and an Inversion of the Order of Nature to subject a Man to the Direction of his Wife (who is under the Power of her Husband as her Curator of Law) but was allowed only to stand as a Security of a competent Aliment to her and the Family 27 Feb. 1663 Lady Milntoun contra L. Milntoun. Again a Bond of Interdiction wherein the Granter's Incapacity is narrated may