

their entertainment, ay and while they should be of perfect age ; after the bairns past tutory, they having chosen curators, the curators pursued the said James Hamilton the tutor, to deliver the bairns' writs, that they might have the administration of their means ; and the said tutor alleging, that the writs should remain with him, seeing he had only right to intromit with the annual-rent of the monies left by the goodsir, for the bairns' maintenance, according to the goodsir's will, the Lords found, that notwithstanding, that by the testament, the goodsir had appointed the said James Hamilton to be tutor, yet that after the tutory, the bairns might choose others, to be curators to them, than the said James ; and that the said curators had good right to call the said tutor, for delivery to them of the writs, containing the means left to them by the goodsir, and that they ought to administrate the same ; but found that in respect the goodsir had left him to be tutor to his oyes, and gave him the rent of the money for their entertainment, while their perfect age, which the Lords found the goodsir might do of law in these things, which were left by himself to them, that therefore the rent of these monies, so left by the goodsir, should be paid to the said James Hamilton, even albeit the bairns were past tutory, so long as they were minors, at least so long as they remained with him in his company ; but the Lords modified the sum, which should be paid to him for the bairns' entertainment, to a reasonable sum, and would not allow, that the annualrent of the whole sums should be paid to that end, but a part, (which they modified) and the rest to be forth-coming to the bairns.

Act. Gibson.

Alt. Heriot.

Clerk, Gibson.

Durie, p. 668.

No. 127.

1633. February 12.

GOVAN *against* RICHARDSON.

Bessie Govan, a pupil, and her father as tutor and administrator in law to her, charging Margaret Richardson, who was obliged by her bond to the said Bessie Govan, in the sum of 200 merks, which sum being consigned in a suspension, to be given up, the suspender being found by the Judge, to be exonerated thereof lawfully, the Lords found the sum ought not to be given up to the father, who desired to lift the money as tutor to his bairn, until the time he found caution to make the same forth-coming to her, at her lawful age, in respect he was but a poor man ; and it was feared that he might spend the money to the bairn's prejudice.

Durie, p. 670.

No. 128.

1634. December 20.

GEORGE CAMPBELL *against* CATHARINE CHALMERS.

George Campbell, tutor dative to Charles Campbell, pursued Catharine Chalmers, mother to the pupil, for delivery to him of the pupil. Alleged, He could not be

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No. 129.
Custody of
the pupil.