

whose custody the said children are, or may be, to deliver them into the hands of the macer of Court, by whom this warrant shall be executed, who is hereby ordered to deliver them into the custody of the said Mr Thomas Bailie, or any person having an order under his hand to receive them: And the said Mr Thomas Baillie is hereby ordained to keep and maintain them, in the most proper manner for their health and education, as he shall be answerable; so to continue until further orders from this Court. And the Lords grant warrant to, and ordain all Sheriffs, Magistrates, and other officers of the law, to give their concurrence and assistance, not only for carrying this warrant properly into execution, but also for the safe transmitting the said children to the place of the said Mr Thomas Baillie his residence, or other place appointed by him, for them, or either of them; and for preserving them under his care and keeping, or under the care and keeping of any other person by him appointed for that purpose, by an order under his hand as said is; and appoint this to be extracted immediately."

This warrant was accordingly put in execution: the children were taken into custody by a macer, and by him put into the hands of Mr Thomas Baillie, and persons appointed by him to receive them.

Sir Stair gave in answers, 13th June 1775, containing a counter-petition, wherein he denied the facts; complained loudly of the affront and injury which had been done him; and demanded back his children in a high tone. He also offered caution for their safety. To this counter-petition Messrs Baillies gave in answers.

The Lords, upon the 4th of July 1775, allowed a proof, before answer, to both parties. This brought on a treaty. Sir Stair petitioned again, praying the Lords to recal the proof, and that his children might be boarded in proper places for their health and education at the sight of the Court. Upon this the whole was remitted to Lord Coalston, and things were adjusted. The children were boarded as above-mentioned; the son with one of the masters of the High School of Edinburgh,—the daughters in an approved boarding school; and Messrs Baillies were reimbursed their full expenses.

NOVODAMUS.

1775. August 10. HERITORS of SPEY against DUKE of GORDON.

EVERY subject, or right, expressed in a clause of *novodamus*, is deemed to be effectually conveyed to the vassal, though there had been no antecedent title to it in his person,—February 29, 1680, *Scott*; 7th July 1736; adhered to, 15th July 1737, *Heritors of Spey*. This last decision again confirmed, 10th August 1775, *Sir James Grant and other Heritors of Spey against Duke of Gordon*: It was a sequel of the former cause in 1737.