

- No. 78. curred to him in making his testament. But had the present case occurred to Mrs. Campbell, that two of her three executors named jointly, would immediately proceed to the administration, without so much as giving notice to the third that he was named executor, it must be presumed that she would have discountenanced that partial step, by an express prohibition of taking any step but by joint concurrence. "The Court notwithstanding sustained the title."

*Fol. Dic. v. 4. p. 297. Sel. Dec. No. 221. p. 285.*

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SECT. XV.

Tutors and Curators.

- No. 79. 1602. March 11. LD. AIRTH *against* —————.

A BOND having been found null, as granted by a minor, having curators, without their consent, this objection was also repelled, That the act of curatory was null, eight being chosen, one of whom had neither made faith nor found caution; notwithstanding whereof, the Lords found the act of curatory complete.

*Fol. Dic. v. 2. p. 384. Kerse.*

\* \* This case is No. 48. p. 8938. *voce* MINOR.

No. 80.

Three tutors, being equally nominated by the testator, one dying, and another refusing to accept, the Lords found, that the whole office devolved on the third.

1609. December 12. FAIRSIDE *against* ADAMSON.

GEORGE FAIRSIDE charged Adamson, the eldest son and apparent heir of umquhile James Adamson of Cowthrole, to enter heir to his umquhile father. The minor offered to renounce. It was alleged, That the renunciation could not be valid, because he was not authorised with tutors. It was answered, That the minor's mother, who was nominated tutrix-testamentar, would authorise. The pursuer replied, That her consent was not valid, because, by the testament, the Laird of Smeiton, Hepburn, the bairn's good-dame, and his mother, were nominated tutors equally, and therefore, the good-dame being dead, and the Laird of Smeiton renouncing the office, the mother's office was extinguished. Notwith-