

No. 257. accept ;” which can have no other import, but the giving the power to any one who should accept, since *pluralitas diversos effectus respiciens, in singularitates resolvitur*. Thus, in law, “*si sine liberis decesserit,*” though a plural expression, yet is fully answered by one child.

Answered for the Viscount: That the alternative, “or the major part of the acceptors,” does as really and effectually determine a *quorum* as if a particular number had been named; for thereby certainly it was the father’s intention, that at least as many should accept, as there still might be a majority, for preventing any stop in the management; and this could not happen in any number under three, since no number under that contains a majority; so that here, indeed, the *quorum*, in some manner, is less ambulatory or indefinite, since it may be less or more, according to the number of the acceptors; but this is certain, and is plainly a demonstration, that the smallest *quorum* must still be the majority of the acceptors, and consequently cannot be under two, nor the acceptors less than three; so that here the case is the same as where curators are named, and a particular *quorum* expressed, and not so many acceptors as make up the *quorum*; in which case, the curatory becomes null; 25th January, 1672, Sir James Ramsay *contra* Maxwel, No. 178. p. 9042. Further, that the quality of *sine quo non* did of itself likewise show, that it was not intended that the tutory should subsist in that one person; for a *sine quo non* necessarily supposes, that there must be other tutors acting with a less power. *Lastly*, That there is a very reasonable distinction in this case betwixt *tutory* and *curatory*; for though it may be presumed the father’s will *in dubio* to prefer any one of the tutors nominated to a tutor in law, yet in the case of curators, who are only to concur and act with the minor, law has considered him to have a sufficient judgment to make a fit choice.

The Lords found, That in the case which hath happened, the father’s nomination hath failed, and that the Viscount is at liberty to choose his curators.

Act. *Tho. Kennedy.*

Alt. *Boswel.*

Clerk, *Mackenzie.*

Bruce, No. 77. p. 93.

1715. June 28. DUNCANSON *against* DUNCANSON.

No. 258.

Found, That a curator might employ in trade his female minor’s stock, by connecting her with another, who was a merchant holden and reputed of knowledge and reputation in that trade, and also a female; and that he was not answerable for the event.

A minor’s stock, though small, cannot be diminished, for the minor’s aliment, by the curator.

Bruce.

* * This case is No. 37. p. 8928. *voce* MINOR.