

11/ known of a sine quo non. (2) cannot be the sine quo non as it is not added -
13/ Curator's consent is homologation of minor's imperfect deed - 14/ Curator
of woman does not imply a full consent - = Curator's consent
14/ woman - even with minor's consent -

should act than law requires, then Deed, tho null in itself as without a Title, would make them liable as Protectors for omission and Intromission. If more Tutors or Curators are named jointly and severally, any one by himself can act or authorize. Where one more are named sine quo, or sine quibus non, his or their consent should always be had. McKenzie Inst. lib. 1. tit. 7. s. 6. Stewart's answers to Dr. J. Dougl. lib. 1. quorum. But 4 Protestants and 5 Papists being named by a Father in his Testament to be Tutors to his Son, and three of them to be a Quorum. Roman Catholic being always one: law Protestant. Nominees were authorized to act in Virtue of the Nomination as if the sine quo non and other Roman Catholics had not been mentioned 3 July 1711 Tutors of S. David's Supplicavit. Quod si a sine quo non may authorize the Minor alone? In my Opinion never.

6° A Tutor intruding with the Rents of his Pupil's Lands intailed to Heir Male cannot employ the sum intruded with upon Security to the Pupil and his Heir Male; upon Pretence of the Parents Intention to have them so secured, arising from the Intail. For as a Tutor could not make a Testament for his Pupil, or name an Executor to him: so he could not make a Falsie either in Land or Money, but should let the uplifted sum being moveable, fall under the Disposition of Law Stewart's answers to Dr. J. Dougl. tit. 1. s. 6. Albeit a Tutor may by an Act of Administration for the Pupil's Advantage, make an heretable ^{by charging} for payment, or render a moveable sum heretable, by leading an Abdication for the Minor's Security: yet it was found that a Tutor could not voluntarily alter the Nature of the Minor's Bonds, by rendering that heretable which at first was moveable; without any other Design than to prevent the Minor's disposing thereof in Testament or on Death-bed, or to advantage the Minor's Heir to the Prejudice of his Executors 11 July 1688 Acid contra Hunter.

7° If a Minor's Deed be null v. g. for want of Witnesses, the Curator's Consent thereto cannot make it good 17 Dec. 24 December 1709 And of son contra Cohe. Because a Curator authorizeth the Minor only ad integrandum personam, to have the Deed to be querrilled forward of Rome in the Grantor; and doth not supply Defects or Nullities. And where a Deed is subscribed ^{by the Minor} with Consent of his Curators, the Curators are not obliged for the Minor as Cautioners to warrant such Deed, but only to consent to it 26 June 1624 Drummond contra L. Cunninghamhead.

Sect. 4.

How Tutor and Curatory ends?

Tutors and Curators, after they have once accepted the office, cannot renounce it 22 Feb. 1712 Gordon of Gordons town contra his Curators. Tho they

Thinking and Affection his daughter

11/ what of the Tutor to be dissolved by the un... of the Tutor.

they lay under no direct Necessity to accept. Quod prius erat voluntatis, utroque then to be necessitatis. Uca Curators cannot be freed by the Minor's Consent, they being appointed by a Judge lib. 35. par. 6. 2. 11. 20 Novemb. 1627. Adam contra Fairholm. Nor was a Decree obtained by a Minor against his Curator deeming him to renounce the office, sustained to liberate him 21 July 1664 Scot contra Scot of Shirethane. Because the Tutor should not have yielded to a Renunciation of the office, as being prejudicial to the Minor; but should have made this Defence against the same, that he could not be decreed to remove without some Instruction of Malversation in him. But the Office of Tutor or Curator expires either ipso jure, or an End is put to it by Sentence of a Judge. The Office expires by the Effect of Law 1° When the Minor arrives at such an Age. Tutorship continues no longer than Puberality, that is, 14 years in Men and 12 in Women pr. inst. quib. mod. tut. fin. The Reason why Women are sooner released from the Government of Tutors than Males, is much the same with that for which they are sooner marriageable, viz. that Female Perfection both of Mind and Body is more ^{early attained} than ~~that~~ Male. Curatory expires at the Period of 21 years in both Males and Females. By a Custom generally received in Germany, Tutors once lawfully appointed to a Pupil, are authorized, if they please, to continue in the Management of his Estate till he attain to Majority; tho they may lay down their Office if they think fit after he got out of Pupillarity. And. Gail. lib. 2. Observ. cap. 96. Corp. v. jurispr. forens. part. 2. const. 11. Def. 10. And we are told that the same Custom prevails in France Art. 1. Ser. Cod. lib. 5. tit. 29. def. 2. Les Lois Civiles &c. lom. 1. part. 1. lib. 2. tit. 1. pr. part. 2. liv. 3. tit. 1. sect. 8. Art. 33. concerning the Effect of the Benefit of Age by Indulgence called a Dispensation of Age, vid. supra pag. 125. 155. If there are two or more Minors under the Care of one and the same Curator, the Office ends for every one as they respectively arrive at Age: And he who had arrived at the Years of Majority, may oblige the Curator to give an Account of his Administration, altho the Curatory continues still with respect to the others. l. 39. s. 17. ff. de admin. & peric. tut. 2° The Office expires by the Natural or Civil Death of the Minor, or by the Natural Death of his only Tutor or Curator because mors omnia solvit. The Office of Tutorship falls to the King by the Civil Death of the Tutor, that is, if he be denounced Rebel, and his Majesty may dispose thereof as was decided in the year 1590 Grathen contra Dison. If more bein the Office jointly, it falls by the Death of any one 17 January 1671 Drummond contra Scotts of Bothkennel. Because they were not intrusted separately, but all together acting jointly. For the same Reason if a Quorum named ~~to be~~ be broke by the Death of so many as that such a Number is not left behind, the Nomination becomes void, and the Office doth not accrue to the Survivors.