

At present Brodie has no more title than I have ; but he says, " Wait till creditors are ranked, and then you shall have an entry."

ELLIOCK. All that Brodie can claim is, to be reponed against the decret, in so far as he himself is concerned. But *that* will not entitle him to plead in the character of the heir-of-line.

On the 14th February 1772, the Lords found that Brodie had no title to move the objection, and decerned ; adhering to Lord Stonefield's interlocutor.

*Act. R. M'Queen. Alt. Cosmo Gordon.*

1772. February 18. HENRY DAVIDSON of Tulloch *against* SIR HECTOR M'KENZIE and his CURATORS.

TUTOR AND CURATOR—*SOLIDUM ET PRO RATA.*

A single curator may interpose for the evident utility of the minor, although, by the nomination, the right of acting be vested in the majority who dissent.

[*Faculty Collection, VI. 13 ; Dict. 14,705.*]

AUCHINLECK. The question is, Whether there was a completed bargain with Sir Alexander M'Kenzie ? According to the entail, a sale was only allowed when the estate came to be affected by adjudication or otherwise : there was no adjudication here. The minor and one of his curators oppose the sale : the curator offers to furnish the money and pay the debt : this is sufficient. If the other curators oppose this, we can remove them as suspect.

GARDENSTON. Sir Alexander M'Kenzie had no power to sell the estate unless *causa cognita*.

PRESIDENT. The sale would have been valid against Sir Alexander M'Kenzie : but Sir Hector does not represent him. Without an adjudication there can be no sale. How can there be an adjudication if Sir Hector is willing to pay ?

On the 18th February 1772, the Lords found that Sir Hector M'Kenzie is not bound to sell, in respect he does not represent Sir Alexander ; and found Sir Hector entitled, upon payment, to stop the constitution of the debts in Mr Davidson's person.

8th July 1772, adhered.

*Act. H. Dundas. Alt. Ilay Campbell.*

*Reporter, Monboddoo.*