

of the Cedent intra Annos utiles after the Affignation had been intimated to the Debtor, was not sustained to support Action against the Affignee 2 July 1667 L. Blantyre contra Walkingshaw. Albeit the Service of an Affignee might be reduced, without calling of his Creditors, or those infest by him, whose Rights would fall in Consequence: seeing the Reducer of a detour is not obliged to know the Rights of Creditors. But then my Lord Stair observes upon the foresaid Pleasur, that if the Intimation to the Debtor in the Bond was not recent before the Citation, or was not personal but only at his dwelling house it had been hard to oblige him the purfier of the Reduction to perform so transient an Act. In the Reduction upon Minority and Lesion of a Disposition of Lands granted by a person who was denuded by an Appropriation and Infestment at his Creditors Instance before commencing of the Reduction; the Minor was found not obliged to cite the singular Successors, but that it was sufficient for him to call the Party with whom he contracted, in Order to be restored in integrum against his own Deed. Albeit the Right of the singular Successor who was not cited, could not be taken away by a Decree in that Reduction, but believed to be drawn in Question by a new Reduction against himself, wherein he may propound any new Defences for maintaining his Right 2 December 1687 Calderwood of Pittedrie contra Belcher of Goffs and Craig of Ramorny. In a Reduction of a Disposition of Lands made by a Minor with Consent of his Curators, it is not necessary for the Purfier to produce any Right he had to the Lands in Ingressu Litis; but it sufficeth that he produce his Right cum processu. For if the Minor had disposed another Person's Lands to which the Minor had no Right, he could be hindered to reduce that Disposition upon Minority and Lesion, for not showing his Title to such Lands; and the Disposition sought to be reduced being produced, nothing more is wanting to sustain Action at the Minor's Instance which tends only to restore him against a Deed done by himself, and cannot, if he has no Right hurt the Disposance. The Proposition in the Libel is founded in Law, minor lesus est restitendus; and the Assumption that the Purfier was Minor and hurt, needs not to be verified or instructed before litis contestatio when the same is admitted to proof 19 & 21 March 1635 Glime contra Kiddel.

In this Action the Purfier must prove Minority at the Time of the Deed sought to be reduced l. 4. C. de integ. restit. l. 9. C. de prob. l. 39. ff. de Minor. Which must be testified non testimonij. s. s. an Extract of the Kirk Session's Register bearing the Time of his Baptism, is not a sufficient Instruction of his death: partly, because that is not an authentic Record; partly for that a Child may be of some years before it is baptized, and Minority being a special Privilege must be exactly proved. But an Extract of a persons Baptism, is of more Weight for proving Majority
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seeing a Child cannot be baptized till it is born 3. March 1626 Wilson contra Aithen. In the Reduction of a Decree upon Minority and Lesion, the said Decree being pronounced against persons as Minors, and against others as Tutors and Curators to them was found to prove the Minors, against the Obtainer of the Decree, unless the contrary were made appear, viz: that these persons concerned against under the Denomination of Minors were then Majors 21 July 1719 Thomsons and others contra Nicol. Where Majority was alleged against a Minors Restitution, a joynnt Proof was allowed to both Parties 20 February 1668 Farguhar contra Gordon. See vide 21 February 1624. Stewart contra Glime, where Majority was preferred in the Proof to an Allegance of Minority. The Minor must not only prove his Minority, but also that he was lesus l. 7. §. 3. ff. de Minor. by the Fraud of his Adversary, or his own juvenile Levity l. ii. §. 3. l. 17. l. 24. §. 1. & 2. ff. eod. in losing what he had, or neglecting to acquire what he might have had, or in taking Burden upon him l. 44. ff. eod. except in the Case of some Deeds naturally hurtfull; as the becoming Cautions for another, gifting things away, or borrowing Money, where Lesion and Misapplication is presumed. l. 7. ff. de donat. l. 1. C. si advers. Credit. Voet. Comm. ad tit. ff. de Minor. N. 13. Fair lib. i. tit. 6. §. 44. till the contrary be proved. A Minors Cautionsary Engagement for the Price of Goods sold to another, was held to be Lesion sufficient to infer Restitution, albeit the Sum was small 17 January 1711 Dundas contra Allan.

Every petty Damage sustained by a Minor is not relevant to intitle him to Restitution in Integrum, but he must prove enorm Lesion; and it is in Arbitrio judicis to determine when Lesion is enorm Fair just lib. i. tit. 6. §. 44. The accepting an illegue for a liquid Right, is not accounted Lesion 14 February 1677 J. and Dutches of Baulough contra E. Tweedale. But a Minor may be sometimes understood to be lesus in the Sale of his Property, even when he gets a competent Price: as when a thing is sold for which he had Reason to have a peculiar Affection, viz: an Ancient Estate derived to him through several Generations, or the House wherein his Father died, or he himself was educated, and where spes conspiciuntur majorum imagines; if the Minor had other Goods less valuable that might have been exposed to sale. Arg. l. 35. ff. de Minor. junct. l. 22. C. de admin. Tut. Adus de Restit. quest. 57. N. 15. Matth. de Auct. lib. i. cap. 16. N. 29. Voet. Comm. ad Tit. ff. de Min. N. 13.

Restitution is competent to Minors lesus whether in judicial, or in extra-judicial Affairs.

Judicial Lesion happens either by the Minor's being found contumacious, or not appearing l. 8. ff. de Minor. or by their being held as unperfected, or not appearing