

Restitution of minors = but homologation is not inferred from a deed which is capable of another construction -

of what was sold; is not such a tacit Ratification as to exclude Restitution. l. 3. §. 2. ff. de Minor. What is done in Implement of a preceding Deed, being understood as done at the Time when it was made lxxij. l. 1. ff. qui pot. in pig. Ant. Jul. Cod. lib. 2. tit. 3. def. 1. N. 14. Christ. vol. 3. Decif. 180. Voet Comm. ad tit. ff. de Minor. N. 44. This justly too. Because a Minor after his Majority while he is not restored, may be pursued and forced to fulfill what was done in his Minority: and he is not bound to seek Restitution immediately upon expiring thereof; since Law allows the whole quadriennium utile for that Effect. So that such Implement of Deeds or Contracts and payment of Debts is understood in Law as designed to prevent Expenses of Plea, which the Minor suffering himself to be pursued for performance before his Restitution, would have been condemned to pay to the pursuer, beside his own Charges in defending. And Debt or the price of goods sold is understood to be exacted, least the same should perish by the Debtor's Insolvency, while the Executor is deliberating if it be expedient for him to seek Restitution or no. A Minor having engaged himself in a Bond, and afterward pursued and obtained a Decree of Relief against the principal Debtor, the said pursuit and Decree of Relief was found to be no Homologation, to hinder Reduction of the Bond of Cautionry. 20 February 1660 Farquhar contra Gordon. Because Homologation is not inferred from a Deed capable of another Construction, and the Cautioner's pursuit of Relief was in Order to loose and not to bind him. So a Female Minor having in her Contract of Marriage provided her Lands and Sums of Money to her Husband and the Heirs of the Marriage, and failing these to his Heirs, without reserving to herself so much as a suitable Life-rent: her uplifting after Majority the Jointure provided in the Contract, was found to be no Homologation to hinder her to reduce the same in Order to get a competent Life-rent 22 November 1664. McGill contra Ruthven of Gair. Since by the Reduction, she did not quarrell what she got, but only that she got not enough.

3° Restitution is denied to a Minor lesed in the Matter of his own profession or Employment Voet. Comm. ad lit. ff. de Minor. N. 50. Les Loix Civiles l. 1. tom. 1. part. 1. liv. 1. tit. 16. sect. 3. Art. 5. Because such are supposed as ready and capable to deceive as to be deceived. Et non est audientis qui propriam allegat turpitudinem lxxij. l. 30. C. de transact. l. 4. C. de revoc. don. l. 5. C. de cond. ob turp. caus. in qua haeret, qui palam artem professus, sese nunc eam non colore causatur. So Lawyers catch'd in Point of Law, are not to be restored upon the Ground of Minority. l. 6. C. de minor. patrinv. l. 2. §. 49. ff. de orig. jur. l. 9. §. 3. ff. de jur. & fact. ignor. Voet. ibid. A Bond was not reduced upon Minority, because the Grantor was a publick Notary, and had payed Annulment thereof after his Majority. Which payment of Annulment was allowed to be proved in that circumstantial Case prout de jure, albeit tending to fortifie the

the Debt in a Bond which could not be proved by 13 Witnesses 19 July 1636 Gardiner contra Chalmers. Traders Merchants or Bankers over-reached in mercantile Affairs, whether Men or Women are not restored against any Damage they may have suffered under Pretext of Minority and Lesion Voet. ibid. N. 51. Les Loix Civiles &c. ibid. Thus a Bond granted by trading Merchants jointly and severally for goods received by them in Copartnership, was not reducible at the Instance of one of them as being Minor, and lesed by obliging himself in solidum: albeit it was alleged that the Price and Goodness of the Ware was rei mercatoriae, and not the Obligation granted for it 20 June 1676 Galbraith contra Lesly. But a Bill accepted by a Minor without Consent of his Father his Administrator in Law, for 47 pounds 5 shill. Scots as the Price of Merchant-Goods sold to another, was found reducible upon Minority and Lesion: albeit the Acceptor was a Writer doing Business for others, and had payed a part of the Sum during his Minority 17 January 1711 Dundas contra Allan. In Respect the Engagement was not in the Business of his Employment.

4° Minors are not restored against Marriage contracted by them seeing that solt comprehend omnis vita consortium, & individuum consuetudinem Voet. ibid. N. 45.

5° Minors are not restored against the Prescription of criminal Actions l. 37. pr. & §. 1. ff. de Minor. Oddis de statut. quest. 4. art. 9. Nor yet against Crimes or Delicts committed by them: as a Minor who has cheated any one or done some Damage, will not be relieved on the Score of his Minority, so as to be discharged from repairing the Damage he has done d. l. 37. §. 1. ff. de minor. l. 7. C. de pen. l. 1. §. 2. si Advers. del. l. 9. §. 2. ff. de Minor. For Crimes must be purged by Innocence, and not by Nonage. Thus a Minor having by an extrajudicial Declaration under his hands, acknowledged that he had stolen some Books; the Confession was found probative against him as to a Civil Effect, for restitution of the Goods, and not reducible upon Minority and Lesion 6 November 1683 Blaw contra Vank. But some Facts are not reputed Crimes or Delicts in Minors, which in those of riper years would not pass unpunished d. l. 1. 2. C. si advers. delict. l. 6. C. de his quib. ut indig. l. pen. C. ut quib. caus. infam. l. 41. C. de transact. A Minor may be restored against Recognition incurred by disposing his Ward-Lands: because that is only delictum feudale which he falls into by Facility or Inadvertency Stewart's Answers to Dittlet. Doubts lit. recog.

6° A Minor cannot revoke a presentation to a benefice granted by him with Consent of his Curators Michonze Observ. on lit. 12. par. 20. §. 6. Because Patrons ought not to make any Advantage by presenting to