As where a deed hath been Extorted by force or fear, or one hath been
drawn into it by fraud or some error or Surprize, Reistion and R
=tution is allowed by Exception, Stair l.b. 1 Tit. 9 § 8 & l.b. 4 Tit. 40 §

24. 25.

The particular grounds of Reasion or reasons of Reduction
are Multifarious, and May be as many as there are pleads a
points of Right. Reduction is pursued either in the first inst
upon bonds Contracts Dispositions or other Evidences of
deeds are sought to be Rescinded, of which I propound here to
or in the second Instance, for Rescinding and Annulling Decre
other Judicial deeds, to be taken Notice of after ward Vide Supra
pag. 1930 & seqq. &
=ual deeds are the reasons ex Capite Minoris ex Capite Inhibitionis, ex Capite Inter. ict
ex Capite Minoris emitatis ex capite Lesi ex Capite Metus, ex ca
=dati upon the Act 1621 anent Bankrupts, and Action of Improb
which are Explained in their proper places. I proceed therefore to
forth the Nature, Steps, and formalities of an Action of Reduction

There is seldom place for Reduction when an ordinary
Legal Remedy que competent i.e. 16 Pro. § de Minor.
in Practick it were ridiculous to Chal off a Member that is Curable
but of the Ordinary Remedy be not Relevant Ly as than the extraor
=nary Remedy consisting may be taken as the party Aggrieved thinks fit
§ l. 21 Bull. Quoad Mob. Cur. Among the Circumstances whe
are to be Weighed in the Grant of a Rescission, the Judge ought
Consider of what Moment the thing in dispute is, and what wo
be the Consequence of the Rescission if it is Granted. It ought not
be granted, where the Damage to be Repaired is Inconsiderable: Fo
in such a case Prætor non Curat Minima l. 4 § de Injurijs Rest
l. 9 § 1. Segq. § de Dolo Malo. It is not thought worthy the Judges Pa
to Rescind a Deed other ways Valid, for a small Matter. Most
Inconsiderable Matters fall under his Cognizance in ordinary
Business. 1 Inst. de Rer. Div. We have no Stated quantity of the
Ground of Restitution, but it is left to the prudence of the Jud
to Determine what is Res Minima. For the Damage to be Repair
is not Considered Abstractly in it self, but Comparatively, as it
Respect to the affair it falls out in, and that which in a Consi
=rable affair wants not be thought Relevant Damage to Reduce
the party against it, might be found such in a Matter of Smo
Moment, and it may be a thing of Very small importance to
one, which is not so to another. However a Creditor whose Debt
was alledged to be Res Minima as being within 100 pound, was
not allowed to plead by Exception upon the Act of Parliament
1621 The Nullity of a fraudulent Heritable right granted to his
prejudice by the debtor, but it was found that he behoved to
Reduce, Conform to the Constant Custom in Heritable Right
19 June, 663 Reid contra Harper.

Justin

Justinian's Law doth not allow Restitution to Children against
their parents Inst. Cum & Advers. quem Rest. non poss. Except where
these Parents had wronged their Children in the Capacity of Tutors,
Nov. 155 Cap. 1 and then it was to be pursued in Modest terms l. 5 infin.
Cod. Dolo Malo. Sir George M'Kenzie also Treatise of Actions Cap. 6.
thinks, that this Remedy by Reduction should not be so Generally
Against persons of Quality or of Near Relation to the party Aggrieved,
Where be an Ordinary Remedy Competent, such as Exhibition &
Delivery &c. because it Generally covered some Wile upon the Disorder.
But I see no Warrand in our Law for such a Distinction. For it
allows Reduction and Restitution against persons of quality and pre
=rents as well as others. The Civil Law doth in the Matter of Rest
Equally favour the Church, the Fisk, Hospitals and Communities,
as Pupills Minors l. 4 C. Ex Quib. Caus. Major. l. 3 C. de jur. Fisc.
l. 9 § de Appel. l. 23 § de § Evicles. l. 32 § de Episc. & Cler. But at
other ways in Scotland Vid. Supr. pag. 137. 138.

Again by the Civil Law, Restitution be craved to be sued out within
four Years after the Party had the Knowledge of the Deception
Practd Inst. Cod. de Temp. in Integr. Restit. § 2. Restitution upon
the Ground of absence Minoritie or the like, is the ordinary Rule, and
Restitution upon fraud or Violence, when the cause which may have
hindered the party from bringing the Action shall have Ceased, and
Restitution of Minors when they arrive at the age of Majority.
Unless it was long of the Judge or Adverse party, that the cause was
not Determined within the time prescribed by Law Quem C. Eod. In
France all Restrictions and Restitutions upon what Ground so
ever they be Built, prescribe in ten Years Reckoning from the day
of the Act or Deed which is Complained of, or from the time that
the cause which may have hindered the party to bring his Action
ceased Les Loix Civiles &c. Tom. 1 part 1 Liv. 4 Tit. 6 Sect. 1 pr.
But these Laws (except those founded on Minority
Concerning which Vid. Supra pag. 128.) must be Commenced at any
time within 40 Years.

A Learned Dutch Lawyer (John Voet Comm. ad § lib. 4 Tit.
in. 29) lays down the following rules for Determining whether
Restitution should be Granted, or within what time it should be sought in Judicial Affairs. The Law and Custom of the
place where the party was injured is the Rule l. 34 § de Regular.
Of Minority be the Ground of Restitution, that must be decided
according to the Law of the place where the person Wronged resides.
But if Relief be demanded against an Act or Deed upon the Ground
of Fraud, Error, Violence &c. The Law of the Country where it was
done should be observed Arg. l. 34 § de Reg. Juris. l. 6 § de Evict.
Unless the Agreement quarrelled was to be fulfilled after where:
in that case the Law of the place of performance is to be Noticed
Arg. l. 22 § de Reb. Cred. Arg. Tot. tit. § de Eo quod Certo loc. l. 21
§ de obl. & Act l. 3 § de Reb. Auct. Jud. Poss. And that in Relieving
Against prescription, the Law of the place according to which the
Session was Summo Jure Completed should be Regarded. Some