is Meant by lawyers saying, that a Minor may be Restored against his Confession of a Crime, than that he may be Restored, if he can prove that he was under any error or Mistake: by which full temperament, both the publick Interest and the safety of Minors is duely Consulted and provided for. 3°/ That Minors Confession being Repeated and the Record to, and backed with the Confession of other dying persons, who could not Clear themselves by Leading him, the verity thereof cannot be Doubted. Upon the Whole Sir George McKenzie (Crim. part 2 Tit. 24 in fin.) Conceives, that a Minor cannot be Restored against his own Confession of a Crime, unless he Justruct, that he was Circumvened or Mistaken. And even if one who is Major can prove, that he was Mistaken in his Confession, as V.G. that the Man he confessed him selfe to have killed, is still alive; he ought to be Restored against such a Confession l. 1 § 17 ff. de qui Albori a man past 21 Years of age having no such plea, may be Executed upon his own Confession without further Inquiry into the truth thereof l. 4 ff. de confessis. The Custom of Nations (Boer. Decis. 63 n. 6. Prosp. Farin. de Reo confess. qu. 81 n. 37 & Bass. Tit. de confessis n. 67) and of Scotland in Particular (McKenzie Crim. part 2 Tit. 24 § 6. Stewart Answers to Doubts Tit. Confessions of Criminals) runs Crosse to the Civil law (C. 4 C. de Auctor. praest.) in punishing Minors after 16 Years of age upon their Confession of Crimes committed by them when doli capaces. But Sir George McKenzie (ibid.) distinguishes Crimes falling under Sense, as Murder &c. from those Requiring Judgement to Discern them, as Sclaphemy, Witchcraft &c. holding that Minors who are Presumed to have no solide Judgement, ought not upon their Confession of Crimes of this last sort, to be Subjected to the ordinary punishment, tho they may upon their Confession of Crimes falling under Sense.

Because persons are Ready to say things out of Judgement Actually, law doth lay no stress upon what is Confessed extra Bancum or Extrajudicially, Unless Supported with Concur-

Concurring presumptions; without which it is effectuall only to Justify a pursuer from the Imputation of Calumny. Farinacius (de reo confess. qu. 82 n. 28 & seqq.) is pleased to think, that Extrajudicial Confession is binding and sufficient, if either ad minculated by other presumptions, or Emitted upon Oath, or Made before and accepted by the Iudicator, or if it be Reiterated, or made in presence of a Multitude, or to ease the Conscience, or when the Crime Acknowledged consists in Animo ad horofy. And Sir George McKenzie (Crim. part 2 Tit. 24 § 8) thinks that some Circumstances of a Crime consisting in Animo may be proved by Extrajudicial Confession. But he doth not Regard such confession, unless fortified with Mighty Violent presumptions: in regard quod Nullum est non potest admini cuari. Nor doth he think extrajudicial Confession a whit stronger for being confirmed by an Oath: seeing Criminals are not obliged to purge themselves by oath, and if they swear Ultroneously, they may be justly looked upon as acts by fury or affected Lædo vitæ. Nor yet doth he allow the Aemfors presence or Consent, or the presence of a Multitude, or Reputation, or the protest of a principle of Conscience, or the Animus Delinquendi; as sufficient to Render Extrajudicial Confession Effectual. Extrajudicial Confession hath been thought a sufficient ground to put the Confessor to Torture. But Confession Emitted by Torture doth not Make faith unless judicially adhered to two or three days after the Confessor is Removed from the Rack Prosp. Farin. de Reo Confess. cap. 3. Or such a time as the Judge shall think sufficient to Alleviate and take off the force of Pain he is under, Carpzov. Crim. part 3 qu. 126 n. 26. Some Sustain Extrajudicial Confession adminculated with presumptions, to infer only an Arbitrary punishment, and not to subject the Confessor to the ordinary pain of law due to the Crime Acknowledged, Bossut Tit. de Convict. n. 34. One was found guilty and Condemned to die for Murder upon Extrajudicial Confessions thereof Made by him on divers Occasions to different persons of