

No 107.

As the deed was clearly in favour of the father, who could not be *actor in rem suam*, the COURT adhered to the judgment of the Lord Ordinary, "sustaining the reasons of reduction."

Lord Ordinary, *Kennet*. Act. *Cha. Hay*. Alt. *D. Armstrong*. Clerk, *Colquhoun*.
L. *Fol. Dic. v. 4. p. 7. Fac. Col. No 64. p. 104.*

S E C T. VII.

Lesion in extrajudicial proceedings.

1614. *January*. EDGAR *against* EXECUTORS of EDGAR.

No 108.

IN an action pursued betwixt John Edgar and the Executors of umquhile Edward Edgar, the LORDS found, that John Edgar minor could not be restored *in integrum* against a bond, in respect he qualified no lesion, but that the gear had made shipwreck after the date of the bond.

Fol. Dic. v. 1. p. 580. Kerse, MS. fol. 146.

1631. *January 25*. HOUSTON *against* MAXWELL.

No 109.

In a reduction of an assignation upon minority and lesion, it was not sustained that an equivalent sum was paid for the right, unless it were also offered to be proved, that the sum was profitably employed for the minor's use.

HOUSTON, as heir to umquhile Helen Murdoch, pursuing Maxwell for reduction of an heritable alienation of some land, made to the said Maxwell by the said Helen Murdoch, upon this reason, because at the time of the said disposition, she was minor, and received not a competent price for the said alienation, neither was there any just or lawful cause, which may sustain the said alienation, nor no sentence of any sovereign Judge interponed finding the said alienation necessary, and to be a warrant to authorise the same, without which the same cannot be sustained, the woman being within 14 years of age, and greatly prejudged; and it being excepted for the defender, that this reason ought not to be sustained, in respect of the bond of alienation produced, which bears the woman's receipt of the money therein contained, for the alienation, and which is more than the just worth thereof, and so she could never allege lesion, no more can her heir do; seeing he offered to prove by witnesses in fortification of the bond of alienation, that he had really paid the sum upon her great and instant desire, when she was travelling to England; so that there needed no decret, it being given to her truly, as said is. THE LORDS found the reason relevant,