

No 101. be made within four years after minority. THE LORDS would not sustain this reason, except the pursuer joined therewith lesion; and also found, that the same ought to be pursued within four years after the minority, as is appointed by the 'L. 3. Si quando Cod. Si major factus alienationem factam sine decreto ratam habuerit, quæ est tit. 74. lib. 5. Cod.' and because the pursuer condescended in his reason upon lesion, and that he *replied*, that the minor himself had revoked *debite tempore*, and intented his action of reduction of that alienation; therefore this reply was sustained to interrupt the prescription, and it was found, it being so interrupted once by the minor himself, the singular successor might *de novo* intent this new action of nullity, without necessity to insist upon that prior reduction. See PERSONAL AND TRANSMISSIBLE.

Act. Stuart.

Alt. Nicolson.

Clerk, Gibson.

Fol. Dic. v. 1. p. 579. Durie, p. 488.

No 102. 1631. July 21. EARL OF KINGHORN *against* GEORGE STRANG.

If a tutor make disposition of a minor's heritage, either in his infancy or with his consent, and the buyer obtained possession upon his infetment, the same cannot be taken away by exception, but by action of reduction or restitution.

Fol. Dic. v. 1. p. 579. Auchinleck, MS. p. 135.

No 103. 1666. July 26. M'KENZIE *against* FAIRHOLM.

A BOND granted by a minor as cautioner for his father, found null, and that the *quadriennium utile* being elapsed, did not bar reduction.

Fol. Dic. v. 1. p. 579. Dirleton, Stair.

\* \* \* This case is No 72. p. 8959.

\* \* \* See 24th February 1672, Corsar *against* Deans, No 60. p. 8944.

No 104. 1666. December 13. THOMSON *against* STEVENSON.

Although the lands of a pupil may not be alienated without authority of a judge, those of a minor may,

JANET THOMSON pursues a reduction of a disposition made by her to Stevenson upon minority and lesion; and also upon this reason, that the disposition was done within some few days after her pupillarity, and it being of land, ought not to have been done without authority of a Judge, especially seeing she had no curators. The defender *answered* to the *first*, There [was] no lesion,

because the disposition bears a sum equivalent to the value of the land. To the second, *Non relevat*. The pursuer answered, That the subscribing and acknowledging the receipt of money by a minor, cannot prove itself, but the minor is lesed in subscribing the same. The defender duplied, That he offered to prove by witnesses, that the price was truly paid, and profitably employed.

No 104.

THE LORDS found not the second reason of reduction relevant, the authority of a Judge being only required to the alienation of lands made by tutors of their pupils' lands. See WITNESS.

*Fol. Dic. v. 1. p. 579. Stair, v. 1. p. 411.*

\* \* \* Dirleton reports this case :

IN a reduction of a right and disposition of certain houses, being pursued *ex capite minoris ætatis*; it was alleged, That the disposition did bear 500 merks to be paid, and the defender was content to quit the right being paid of the sum.

It was found, that the allegiance was not relevant, unless he should offer to prove it really paid, and profitably employed for the use of the minor.

In this process the LORDS would not sustain the reason *per se*, unless lesion were joined and libelled, viz. that the lands were disposed *sine decreto judicis*.

1667. June 4.—IN the case Thomson *contra* Stevenson, the LORDS found, that the extract out of the kirk-session books, is not a sufficient probation of age to infer reduction *ex capite minoritatis*; but the case being *difficilis probationis* after a considerable time; they found, that *aliqualis probatio* ought to be received, with the adminicle foresaid. See PROOF.

*Norvel.*

*Alt. Wallace.*

*Clerk, Hamilton.*

*Dirleton, No 61. p. 26. & No 72. p. 30.*

\* \* \* A similar decision was pronounced, 6th December 1699, Creditors of Clark against Gordon, No 69. p. 3668, *voce* ESCHEAT.

1704. January 19.

BANNATYNE against TROTTER.

CAPTAIN JOHN BANNATYNE having married Dr Robert Trotter's sister, and there being 500 merks of the tocher yet resting unpaid. the Doctor gives a bond to the said John for that sum in liferent, and to William Bannatyne (who was the son of the marriage) in fee. William grants an assignation of this sum to his father, but he was then minor. Afterwards, on some mistakes arising betwixt his father and him, he retires to the Doctor his uncle's house; and

No 105.

A minor granted an assignation of a sum to his father, and when major, he assigned it to another person, but neglected to