

No 156.

fence against
him pursuing
a reduction
of that bond,
*ex capite mi-
noritatis et
lesionis.*

the bonds the said pursuer confest and affirmed himself to be major; and as the law provides that minors should be reponed, so the law provides that minors should not deceive majors, *quia jura minoribus deceptis non decipientibus subveniunt.*— THE LORDS found this exception relevent for these bonds, seeing the pursuer replied upon no fraud nor circumvention upon the defender's part, whereby they induced him to make that confession; but found the allegiance ought only to be proved by oath of the pursuer, or by writ, and not by witnesses. And it being *alleged* by some other defenders for their bonds, That at the subscribing thereof, the pursuer swore that he was then major; this was also found relevant to sustain these bonds to be sicklike proved *scripto vel juramento*, and no otherways. And other defenders *alleging*, That the pursuer promised never to revoke these bonds granted to them; this allegiance was repelled; for as he had wronged himself in the act of subscribing these bonds, against which the law restored him; so of like reason he ought to be restored against that naked promise, neither being judicially made, nor sworn in judgment, nor out of judgment. *Item*, Some others of the defenders *alleging*, That their bonds were granted upon monies furnished to the pursuer *quæ erant in rem ejus versæ*, in so far as they offered to prove, that they were given to his merchant from whom he bought stuffs, which were employed to be bridal cloaths to him, and which were worn by him at his marriage, and kept thereafter in his possession; this allegiance was also found relevant to elide the restitution craved against these bonds. And lastly, some others of the creditors *alleging* these bonds were made for cloaths, meat and drink, necessarily furnished by these creditors to this pursuer's brethren and sisters, and which they did at his special command and direction, and without which direction, they would never have made this furnishing; this allegiance was repelled, because the direction being given, (if any had been which was not granted) was given while his father lived, and the said furnishing also made during his lifetime, and the pursuer not being holden in law to furnish them, he cannot be convenable therefor; and notwithstanding of any alleged directing, the LORDS found he ought to be restored. See PROOF.

Act. Stuart.

Alt. Gilmore & Craig.

Clerk, Gibson.

Fol. Dic. v. 1. p. 585. Durie, p. 831.

1672. February 24.

CORSAR against DEANS.

No 157.

A BOND granted by a minor, without consent of his father, administrator, found null, though the minor was a notary and messenger, and, therefore, of presumed ability.

Fol. Dic. v. 1. p. 585. Stair.

* * * This case is No 60. p. 8944.