

1663. *January 30.* LADY CARNEGIE *against* LORD CRANBURN.

No 112.

IN a declarator of recognition, founded upon an alienation to a second son an infant, who afterwards, by the death of his elder brother, became apparent heir; the LORDS repelled the exception of minority and lesion, because minors can only be restored against their own deeds, not against the deeds of third parties, though, *ex accidenti*, the deeds may happen to be to their prejudice. And here the infestment was purely the deed of the father, which was valid, without necessity of acceptance upon the son's part.

*Fol. Dic. v. 1. p. 582. Stair.*

\*\*\* This case is No 11. p. 7732., *voce* JUS QUÆSITUM TERTII.

1666. *December 12.* THOMSON *against* STEVENSON.

No 113.

IT is not sufficient to bar reduction upon minority and lesion of a sale made by a minor, that the price was truly paid, unless it is farther offered to be instructed, that the same was profitably employed for the minor's use.

*Fol. Dic. v. 1. p. 580. Stair. Dirleton.*

\*\*\* This case is No 104. p. 8982.

1667. *July 2.* LORD BLANTYRE *against* WALKINSHAW.

No 114.

IN a reduction, the Lord Blantyre *contra* Walkinshaw, *ex capite minoritatis*, It was found, that the granting of a bond, though with consent of curators, being persons above all exceptions, was lesion; and that it was not sufficient to allege that the money was actually delivered to the curators, or to the minor in their presence, unless it were also alleged that it were converted to his use.

This seemeth hard, for the borrowing of money by the minor whose affairs may require the same, was not lesion, but the misemploying of it, which is the fault of the curators.

*Fol. Dic. v. 1. p. 580. Dirleton, No 88. p. 36.*

\*\*\* Stair's report of this case is No 76. p. 2215., *voce* CITATION: