

1632. *January 27.*TAYLOR *against* HART.

No 63.

The Lords received minority and lesion by way of exception, the sum in question being only L. 80 Scots.

TAYLOR pursues Hart upon his bond. The defender *alleges* the bond was given by him for the price of a horse the time of his minority, as he was yet minor, without consent of his curators. It is *replied*, That this defence is not competent by way of exception, but the minor must reduce. THE LORDS, in respect of the sum, which was but L. 80, ordained the minor to allege his lesion, and received the same by way of exception.

January 31.—AND in the same cause, because the minor being a young man of 17 years of age, bought the horse in a market, and kept and used him, the LORDS repelled the exception of minority. See MINOR.

Fol. Dic. v. I. p. 175. Auchinleck, MS. p. 136.

1665. *June 28.*ROBERT KEILL *against* JOHN SEATON.

No 64.

Minority and lesion is not competent by way of suspension or exception, but by way of action of reduction,

GEORGE SEATON as principal, and the said John Seaton his cautioner, having granted bond to Robert Keill, and being charged thereupon, both did suspend, and having alleged payment, they succumbed, and were decerned. John suspends again, and raises reduction upon minority and lesion. The charger *answered*, *1st*, That this reason was competent and omitted in the former decret. *2dly*, That proponing payment, did homologate the debt, as if an heir proponed payment, he would not be admitted to renounce thereafter, or to deny the passive title. The suspender *answered*, That the former process being in a suspension, nothing was competent but what was instantly verified, and so minority and lesion was not competent. The charger *answered*, That the decret of registration was turned into a libel, as being registrate at the assignee's instance, not having intimate during the cedent's life, and at that time the suspender had raised his reduction, and so it was competent. The suspender *answered*, That he was not obliged to insist in his reduction, and that the reasons thereof were not proper, even in an ordinary action, but only by a reduction. It was further *alleged*, that competent and omitted, took no place in suspensions.

THE LORDS had no regard to the last allegiance, but repelled the allegiance upon homologation, and upon competent and omitted, in respect that minority and lesion is neither competent by way of suspension nor exception, but by way of action of reduction, wherein the suspender was not obliged to insist.

Fol. Dic. v. I. p. 175. Stair, v. I. p. 289.