

S E C T. X.

No Restitution till the other Party be restored.—Whether a Minor, who follows a Profession, can be restored?

1576. *June 26.*M'WILLIAM *against* SHAW.

No 151.

A minor insisting upon minority and lesion, must first make offer of what he received in contemplation of the bargain.

ANENT the action pursued by N. and M'William against John Shaw, for reduction of a contract and infeftment passed thereupon, the pursuer *alleged*, That they should be reduced; because, the said contract and infeftment were made by him in his minority. The defender *alleged*, That the pursuer had no place to call for reduction, without he had offered the sum of money which he had received for the infeftment of the lands contained in the contract; which allegiance of the defender was admitted by the LORDS, and the other repelled *ab agendo*, until he restored the said money.

Fol. Dic. v. 1. p. 584. Colvil, MS. p. 253.

1628. *March 22.*FARQUHAR *against* CAMPBELL.

No 152.

A MINOR having kept a tack, whereof his father was in possession, and being charged to enter heir, offers to renounce. *Answered*, He could not now renounce, in respect of the tack which he has possessed since his father's decease.—THE LORDS found he might renounce, restoring the benefit which he made of the tack to all parties having interest.

Auchinleck, MS. p. 131.

* * Durie reports this case:

IN an action by Robert Farquhar, as assignee to the L. of Carnehill, against George Campbell, as lawfully charged to enter heir to Campbell of Quinziecleugh his father, who was obliged in some money to the pursuer's cedent, for payment of the said sum, the defender offering to renounce to be heir; and the pursuer *contending*, That he could not renounce, seeing *se immiscuit* by intermitting with the duties of certain lands diverse years after his father's decease, whereof his father was heritor, or tacksman at least, which were bruiked by his father *per tacitam relocationem*, the time of his decease; and the defender *replying*, That there was a decret of improbation against him, decerning all right whatsoever made to his father to make no faith, whereby he could not be reputed heir for any intromission he had of the said lands, seeing he stood obliged,