

Book II.
Title XLII (XLIII).

If a minor has said he is, or if he has been shown to be, of age.

2.42.1. Emperor Alexander to Maximiana.

If, when you were less than twenty-five years of age, you gave proof (in court) that you were over twenty-five, deceived by a document of your birth, delivered to you, you may, even after becoming of age, within the time fixed by law, go before the judge who has jurisdiction and ask restitution of rights against all that you did while under age. Promulgated March 21 (223).

Note.

It was customary for persons who were of age to go into court so that they might be declared to be so. In this case the person, desiring to deal with a (female) minor, probably caused her to take that course, furnishing her with a forged document as to her birth, which proved to be spurious. Bas. 10.25.1. Hence restitution of rights could be granted, though that would not have been true if the minor had used fraud. Law 2 h.t.

2.42.2. Emperors Diocletian and Maximian to Vitalius.

If the person who now alleges that he is a minor, deceived you by a misleading lie as to his age, he is not, according to the decree of law, entitled to restitution of his rights, since the public laws aid the erring minors, not the deceitful. Given November 30 (287).

2.42.3. The same emperors and Caesars to Theodota.

If you, as a minor, labored to prove yourself over age by your personal appearance, for the purpose of defrauding another, then, since evil-mindedness supplied the place of age, the aid of restitution of rights, it has been decided, is denied, both by the imperial constitutions as well as by the authority of rescripts.

1. But if this took place through the unlawful conduct or circumvention of your adversary, the benefit by which minors are, after investigation, customarily aided, remains.

2. When you, therefore, go before the president of the province and he has investigated the matter of the proof¹ of your age, and fails to find that you were guilty of fraud, and you prove that you were then a minor, he will take care, upon cause shown, that your rights are restored.

3. If, however, you asserted in a document, under the sanctity of an oath, that you were of age, you should not be unaware that you are excluded from the benefit of restitution of rights unless you can plainly and clearly show by documents produced, and not by depositions of witnesses, that you were under age.

4. If, moreover, you took such oath corporally, the law is clear that no aid remains to you.²

2.42.4. The same emperors and Caesars to Livius.

¹ [Blume] See note C. 1 h.t., and see 35 Z.S.S. 141.

² [Blume] As to an oath taken corporally, see C. 2.27.1 and note.

Since you allege that you were in error in your proof before the governor of the province as to the number of your years, and it has been approved that also in such cases aid will be extended to unemancipated minors,³ it is proper that the president of the province should examine the matters contained in your petition; and if he, after determining your age, learns, by the light of the proof, that you took yourself to be of age under an erroneous belief, he will act toward the person of a minor in accordance with the actual facts.

Given December 8 (293).

³ [Blume] C. 2.22.