

S E C T. XIII.

Whether Minority interrupts the expiry of the Legal.

No 187. 1630. *January 28.* PRINGLE *against* RIDDELL.

A MINOR intends action against a creditor who had comprised lands from the minor's father, to hear and see him decerned to renounce the comprising, because he had intromitted with the farms and duties of the compriser's lands, and with as much as might pay the sum with the annualrent for which he had comprised the lands. It was *alleged* by the compriser, That he was not obliged now by the act of Parliament to renounce, seeing the legal reversion is expired, and that the act of Parliament gave that favour to minors to reduce at any time before their perfect age of 25 years of comprisings deduced against the minors themselves, and not against their parents, being of perfect age. THE LORDS repelled the exception.

Auchinleck, MS. p. 37.

No 188. 1639. *February 22.* RULE *against* ———.

Although a minor may redeem lands appraised any time within minority, yet after the time allowed to majors to redeem, and before the minor has redeemed, the rents belong to the compriser.

JAMES RULE having comprised from ——— Hume minor, the lands of ——— for some money owing to him, which lands being desired to be redeemed by virtue of an order of redemption used in name of the minor by his tutors; which order and action intended thereupon, being pursued and used after the expiring of seven years subsequent to the comprising, and before the minor's attaining to the age of 21 years, and so divers years within his minority; it was questioned betwixt the compriser and the minor, and his tutors and curators, if the land should be redeemed by payment of the principal sum for the which the lands were comprised, and the ordinary annualrent of the money allowed in law, as the minor alleged they should be, in respect of the act of Parliament 1621 anent comprisings, which declares that minors have the benefit to redeem comprised lands, the right of reversion whereof is competent to them at all times within the age of 21 years, by payment of the principal sum and annualrent, as said is; likeas, this redemption is pursued within the age of minority; and the compriser *alleging*, That although the act of Parliament permits to minors the benefit of redemption of comprised lands at any time within their minority; yet that act expressly provides, that after the expiring of the seven years subsequent to the comprisings, although the minor may re-

deem the lands at any time within his minority, yet the compriser has right to the duties of the lands in the comprising of all the years subsequent to the first seven years, and intervening before the redemption; and the offer and consignation of the annualrent satisfies not; and the other *replying*, That the act provides, and can have no other interpretation, but that minors may redeem at any time within their minority in that same manner as majors may redeem within the time allowed to them in law, viz. within seven years, within which time they are not holden to pay to majors any more but the annualrent; and although the act of Parliament appoints the mails and duties of the lands comprised from minors, of the years subsequent to the first seven years, and intervening to the years of majority, to pertain to the compriser, yet that is only statute and appointed in case minors redeem not in no year before their age of 21 years, and is set down for a penalty in case of failzie, and ceasing to redeem during all the years of minority, to the which case the words of the act are expressly limited, and cannot thole any other interpretation; likeas, it were iniquity to prejudice minors of their benefit which they have by that act, except where the failzie falls, as it does not in this case. THE LORDS found, that by this act of Parliament there is no further benefit granted to minors more than they had before the making of that act, except only for the time of redemption, which is declared by that act not to run against them during the time of their minority, but that they may redeem lands comprised at any time within the years of 25 years; but, found, if they redeem not while the seven years be outrun (albeit they redeem thereafter, and within the age of 21), that the duties of the lands for the years after the seven years, and before the time of the redemption, should pertain to the compriser, and that the minor satisfied not the tenor and mind of the act by paying of the principal and annualrents; and so found the duties of the lands of the intervening years to pertain to the compriser and not to the minor, albeit he redeemed far within the years of 21 years; and found that the act ought to be so interpreted.

Act. *Advocatus et* ———.Alt. *Nicolson et Craig.*Clerk, *Gibson.**Durie, p. 876.*

1677. December 4.

OLIPHANT *against* HAMILTON.

THERE being several apprisings deduced against Anthonia Brown, as lawfully charged to enter heir to Sir John Brown of Fairnie her father, in the lands of Fordell and Rossie, &c.; whereunto William Hamilton of Wishaw hath now right; there was another posterior apprising of the said lands deduced against the said Anthonia, at the instance of unquhile John Oliphant, whereupon John Oliphant his son and heir hath used an order of redemption of the former apprisings, and thereupon pursues declarator of redemption. It was *alleged* for

No 189.

A minor succeeding to the legal reversion of an apprising by a posterior apprising, has not only the privilege of redemption in the right of