

predecessor died ; also it was found, that albeit the sum charged for and comprised, was more than the sum addebted to the compriser, yet that the comprising and charge for the whole was sustained, ay and while the compriser was completely paid of the sum for the which the comprising was deduced ; which being satisfied, the LORDS found the compriser could seek no more, and that her interest ceased, albeit the suspender remained obliged in much more, which would pertain to the first creditor, or others having the right thereof.

Act. *Hope & Stuart.*Alt. *Nicolson & Primrose.*Clerk, *Gibson.**Fol. Dic: v. i. p. 586. Durie, p. 361.*

No 174.

1630. July 30.

JOHNSTON *against* HOPE.

No 175.

A bond of borrowed money granted by Johnston being desired to be reduced, because it was granted by him, being minor, and to his lesion, and was revoked *intra annos utiles*, and the action foresaid of reduction intended thereupon ; and the defender *alleging*, that it was not reducible, because after his majority he had paid annualrent to the creditor for this sum, whereby he had ratified the same bond ; the LORDS found this allegiance relevant, for payment of the annualrent by him after he was major was found to be a ratification of the bond, which excluded all action of reduction upon minority and lesion, albeit the annualrent was paid for obedience of letters of horning upon that bond, which bore an obligation of annualrent, which the pursuer alleged he had necessity to obey, and that it was not a voluntary act, which was not respected, seeing he might have suspended the charges, which not being done, was a ratification of the bond.

Act. *Lawrie & Taylor.*Alt. *McGill & Gilmore.*Clerk, *Hay.**Durie, p. 537.*1630. November 16. MURRAY *against* COCHRAN.

IN a suspension of charges upon a bond of 40 merks made to Murray by one Cochran, upon reason of the debtor's minority the time of the subscribing of the bond, he being then within 18 years in his father's house, and subscribing with his umquhile father, with whom he is bound conjunctly and severally, and getting neither benefit of the money alleged borrowed, nor benefit by his father's decease, being a poor young man ; likeas, he has revoked that bond *debito tempore intra annos utiles*, in respect of his lesion ; this reason was not sustained to be received by way of suspension, albeit both betwixt poor parties and

No 176.

An indigent young man of 18 having signed a bond with his father, revoked *intra annos utiles*. By Durie's report, this was not sustained by way of suspension. By Auchinleck's, the contrary.

No 176. a small sum, in respect that the suspender had not intended *debito tempore intra annos utiles* a summons of restitution *in integrum* to be reponed against the said bond, nor reduction upon the said revocation and minority; and found, that this reason of suspension upon that revocation, albeit done *debito tempore intra annos utiles*, interrupted not.

Act. ———.

Alt. *Nairn*.

Fol. Dic. v. I. p. 585. Durie, p. 539.

. Auchinleck reports this case.

WILLIAM COCHRAN is bound with his father conjunctly to pay John Murray 40 merks, with the annualrent thereof, during the not-payment of the principal. The creditor pursues not the debtor while after his father's decease, and registrates the bond, and charges the defender. He suspends, and *alleges*, that he made revocation *intra annos utiles*. It was *replied*, that a reason of suspension, founded on a naked revocation without reduction, was not relevant.— THE LORDS, in respect of the meanness of the matter, and poverty of the party, sustained the reason of suspension, proving his minority.

Auchinleck, MS. p. 134.

No 177.

Reduction of a decree against minors charged to enter heir sustained, though not raised *intra annos utiles*.

1661. July 17. RELICT OF ROBERT FLEMING *against* FORRESTERS.

THE relict of Robert Fleming, Bailie of Edinburgh, as his executrix, charged Forresters, the Bailie's sister's daughters, to pay 1600 merks, due by their father, by bond, and decerned against them, as lawfully charged to enter heirs to him 19 years ago, and now eiked to the Bailie's testament by the charger, whereupon she obtained letters of horning summarily. The suspenders *alleged*, the letters ought to be suspended *simpliciter*, because they offered a renunciation to be heirs. The charger *answered*, *Non relevat post sententiam et tantum temporis intervallum*. The suspender *replied*, They were minors the time of the decret, and that the delay of time was, because their uncle never insisted, and it was like, purposed not to insist. The charged *answered*, They were now majors, and did not reduce *intra annos utiles*.

THE LORDS admitted the renunciation.

Fol. Dic. v. I. p. 586. Stair, v. I. p. 52.

No 178.

A reduction on minority and lesion was not sus-

1672. January 25. SIR JAMES RAMSAY *against* MAXWELL.

SIR JAMES RAMSAY having charged Maxwell of Carnsalloch upon a bond granted by him, he suspends and raises reduction; *imo*, Upon minority and le-