

## S E C T. IV.

*Privilegiatus contra Privilegiatum.*

1546. May 13.

The BISHOP of MURRAY *against* The PROVOST of ST ANDREWS.

No 54.

ANE minor sould answer upon his heritage, beand persewit be ane uther minor, or be the kirk, quhilk is understuid ever to be minor; and ane minor may not bruik or joise ony privilege of minoritie contrare ane uther minor.

*Balfour, (MINORS.) No 12. p. 333.*

\*\*\* Sinclair reports this case :

1547. May 13.—THE Bishop of Murray, commendator of Scone, called Patrick Learmont, son to the Provost of St Andrews, for reduction of a feu made by the said commendator and convent *per metum*.

Mr James M'Gill, procurator for Learmont, *alleged* he was minor annis secundum leges Scotiæ in Regia Majestate, ergo non debet compelli litigare in hoc casu, viz. super re hæreditaria sibi pertinenti in feudo jure hæreditario; et duxit simile decretum Dominorum Concilii nuper latum inter \_\_\_\_\_ et \_\_\_\_\_. Nihilominus allegabat quod quia ipse agebat nomine ecclesiæ quæ semper censetur jure minoris, et ut minor, et ideo minor supra minore privilegio non gaudet; item quod nuper Domini in causa, Domini de Morton contra Reginam de retractatione resignationis, per ipsum factum in manibus illustrissimi principis Jacobi quinti sui patris ad remanentiam perpetuam, exceptione minoris ætatis Reginæ præposita per advocatum suum, interlocuti sunt eum placitare debere, jure illo Regiæ Majestatis non obstante; ideoque lex illa videtur dura, et contra rationem, quia ex dolo vel metu suo, vel alterius res apud minorem usque ad perfectam ætatem suam permaneat cum magno incommodo alterius, et ita Domini hoc per suam interlocutoriam deciderunt, Patricium reddere debere in hoc casu.

*Sinclair, MS. p. 75.*

1580. March. ABBOT of NEWBOTTLE *against* TENANTS.

No 55.  
Found in conformity with the above.

THE Abbot of Newbottle pursued certain of the tenants for reduction of their feu-charter. Compeared one called Cavers, and *alleged*, that he was minor