

lands redeemable by his father's other creditors within ten years, as if he had acquired the right to the apprising.

No 65.

*Fol. Dic. v. 1. p. 359. Harcarse, (COMPRISINGS.) No 325. p. 79.*

1700. June 29. BORTHWICK against The EARL of WINTON.

No 66.

IN a competition between John Borthwick and the Earl of Winton, as creditors on the estate of Adingston, John *objected* against the Earl's apprising, That, by the 62d act 1661, all apprisings acquired by apparent heirs are redeemable from them within 10 years after the purchase; and *ita est*, this apprising is bought in by the Earl, the apparent heir's husband, and is all one as if a tutor, curator, or other administrator, should acquire it for their minor's behoof; and therefore as it is redeemable from the apparent heirs themselves, so also from their husbands; especially considering the same is provided to her heirs. *Answered*, Laws are not to be extended *de casu in casum*, especially in correctory acts of the former common law, and so being *stricti juris*, and the husband not mentioned in the act, it cannot be extended to his acquisition, unless they will subsume that he purchased in the apprising with the apparent heir's means; and *non refert*, that the apprising will devolve and descend to her son and heir, for he does not succeed *qua* heir to her, but as my Lord's heir; and the Lords have refused to extend the act to the case of husbands, 21st February 1673, Richardson, No 52. p. 5310; and 13th June 1674, Richardson, No 54. p. 5312.; and the parallel case of a goodsire's buying in a comprising, and disposing it to his grandchild, was found to make it redeemable, Maxwell of Pollock, No 51. p. 5309.; Sir George Monro, No 59. p. 5317.—THE LORDS were satisfied of the hardship in this case, and that there was *paritas rationis* to redeem from an apparent heir's husband, as well as from herself; but the same being omitted in the act, and already decided, they would not extend it till the same were re-considered in Parliament; and therefore repelled Borthwick's allegiance, and found the Earl's apprising not redeemable.

The act 1661 not extended against the husband of the apparent heir. See No 52. p. 5310.

*Fol. Dic. v. 1. p. 360. Fountainhall, v. 2. p. 100.*

See Kincaid against Gordon, No 7. p. 289.

See No 9. p. 3186.

Heir apparent has exhibition *ad deliberandum*. See EXHIBITION AD DELIBERANDUM.

What carried by escheat of an apparent heir. See ESCHEAT.

What deeds infer the passive titles. See PASSIVE TITLES.