

(EXTINCTION.)

No 7.

found in the case of the Earl of Nithsdale, and Countess of Buccleugh;* and was several times so found, by the Lords before.—THE LORDS found the defender accountable by a rental as the lands paid the time of his entry, but prejudice of his just defalcations, he clearing a reasonable cause thereof, and proving the truth of the same; for they thought, that albeit apprisers are only accountable for their intromission, that is, only for such parts of the lands, as they intend only to possess, and not for those they never possessed; yet in so far as they once entered to possess, they must do diligence.—It was further *alleged*, That no allowance ought to be given to the defender, of a composition he had given to the superior, in respect a prior appriser had given a composition before, and so he was obliged for none.—The defender *answered*, That both the prior and posterior composition was within a year's rent, which was due to the superior; which the LORDS allowed, seeing it was not alleged that the composition of a year's rent was discharged by the superior, but only according to the custom of the burgh, where the lands lay, so much marked upon the precept received in name of composition.

Stair, v. 1. p. 74.

No 8.

An appriser found accountable, not only for the seven years, but for the whole years of his debtor's minority.

1663. February 18. M'KENZIE against JOHN ROSS.

JOHN ROSS having apprifed certain lands belonging to M'Kenzie, there is a pursuit of count and reckoning intended, for declaring, that the apprifing was satisfied within the legal.—It was *alleged*, That the appriser was not accountable for more of the other party's minority than seven years; because, in the act of Parliament 1621, anent apprifing, it is so provided; and albeit the meaning of the act of Parliament was declared to be otherways, by the act of Parliament 1641; yet that declaration was contrary to the clear meaning, by the general rescifforary act 1661.

THE LORDS having considered the rescifforary act, and the reservation therein, of the right of private parties following upon the deeds of these Parliaments, in respect thereof, and of the custom these 20 years, the appriser using to account for all, found the appriser accountable for the whole year of the minority. (See MINOR.)

Fol. Dic. v. 1. p. 21. Stair, v. 1. p. 182.

1666. January 20. CLAPPERTON against LAIRD TARSONCE.

No 9.

The legal being prorogated from seven to ten years, the appriser be-

CLAPPERTON raises a declarator against Tarsonce, for declaring an apprifing at his instance, against the pursuer, to have been satisfied within the legal, by payment of the sums by the debtor, or by intromission with the mails and duties, either within the seven years of the first legal, or within the three years there-

* There are cases between these parties, Fount. v. 1. p. 274. 387. 582. and under ANNUAL RENT in this Dictionary; but they do not seem applicable. See General List of Names.