

- No 2. and a discharge thereof, ordered to be given to the minor, the LORDS found, that the said decreet could not hinder him to renounce to be heir, quia non se gessit pro hærede; for these arguments; *1<sup>mo</sup>*, The minor submitted, he not being past 21 years of age, and being able to subscribe, but only the tutors taking burden upon them to him; *2<sup>do</sup>*, A discharge given to him of all things that may be laid to his charge, as heir, non inducunt agnitionem quia sunt verba suspensive et dubitative prolata et sic non probant voluntatem agnoscendi hæreditatem, per legem gentium D. De acqu. hæreditate; *3<sup>io</sup>*, It must be an express act circa ipsam hæreditatem, as was decided betwixt Munro and Graham, that the discharge might stand, in respect the minor renounced not purely and simply, but with exception of the lands contained in the contract of marriage, and so he is capable of a discharge of all actions preceding the contract.

*Fol. Dic. v. 2. p. 340. Kerse, MS. fol. 138.*

1626. July 20.

HARVIE against BARON.

No 3.

A DECREE being recovered against a party as lawfully charged to enter heir, he, in a reduction of the said decree, though 16 years after it was pronounced, was allowed still to renounce, the renunciation being offered *rebus integris*; but this only to the effect to take away all personal execution against the reducer, but nowise to stop any real execution against lands, &c. which the said reducer could claim by his predecessor; and the reducer also in this case to pay a sum modified by the LORDS for the party's charges, he having debursed the same necessarily by the reducer's fault.

*Fol. Dic. v. 2. p. 330. Durie.*

\* \* This case is No 173. p. 9038. *voce* MINOR.

No 4.

Found, not competent to an heir charged, to renounce, with the exception of lands provided to him, in his mother's contract of marriage. He must renounce simply or run his hazard.

1627. January 23.

LA. OGILVIE against LO. OGILVIE.

IN an action of registration, at the instance of the Lady Ogilvie against the Lord Ogilvie, who was convened as lawfully charged to enter heir to his father, and for purging whereof he produced a renunciation, whereby he renounced to be heir to him, with an exception therein insert viz. that because his unquhile father was obliged, in the contract of marriage made betwixt him and his said father, and the Earl of Melross and his daughter, now spouse to the defender, to infest the said defender and his heirs, in the lands mentioned in that contract, and whereupon he had served inhibition, which contract and inhibition preceded this contract, now desired to be registered, and so that