

thereby his father was constituted his debtor, that therefore it might be lawful to him to enter heir in these lands, wherein his father was obliged to infeft him, as said is, and whereby he was constituted his debtor for his security, in case he might not come to the right of the said lands otherwise; and which he alleged he might lawfully do, and ought so to be found by the Lords, without any hazard or danger to be heir generally, or but any peril to ensue there-through to him, seeing this pursuer could not have prejudice therethrough. THE LORDS found, that either the defender ought to renounce *simpliciter*, without any exception and reservation therein, or they could not receive their renunciation with such a provision and exception, as was craved; seeing if he intended to enter heir to his father, he behoved to do the same, upon his own hazard; for the LORDS declared that they would make no such provision as was craved by the defender, albeit the same depended upon a preceding cause of debt, but he ought to seek the implement thereof otherwise, as he pleased.

No 4.

Act. Nicolson & Aiton.

Alt. Stuart.

Clerk, Scot.

Fol. Dic. v. 2. p. 340. Durie, p. 261.

1629. January 13. NISBET against NISBET.

A DECRET being given against a party, as lawfully charged to enter heir, after the defender compeared, and took a day to produce a renunciation to be heir, and the term being circumduced for not producing of the renunciation, and so decret given, which being thereafter suspended, upon production of a renunciation;—the LORDS found, that the same might be received by way of suspension without reduction, and received the same, albeit the decret was given against him, for not producing, after a term assigned to him for that effect; and so against him compearing, he being then major; and so suspended the said decret upon production thereof.

No 5.

Act. Stuart.

Alt. Craig.

Clerk, Gibson.

Fol. Dic. v. 2. p. 340. Durie, p. 413.

1632. December 11. WOOD against BLAIR.

ONE being pursued as lawfully charged to enter heir to his father, and taking a term to renounce, and at the term offering to prove, that he had an elder brother living, and so he could not be that person that could be charged to enter heir to his father, his elder brother being alive; the LORDS found, he ought not to be heard to propone this allegiance, and thereafter suffered to renounce, if he succumbed to prove the same.

No 6.

Durie, p. 657.