turn effectual, when the condition either of the debt arrested or arresting is purified: *ex lege* 14, *D. de Pignoribus, quis potest persequi pignus, licet dies debiti sui nondum venerit*. Upon thir principles is also grounded that disparity of transmission by succession, where the creditor in an heritable bond dies before the term of payment, for then the debt falls to his executors and not to the heir, because the heritable destination had not as yet taken effect. *Vide Dury*, 10th March, 1630, D. Lindsay *contra* Town of Edinburgh; see 51 act, Parliament 1661.

Here arises a third question,—A creditor by an obligement under his hand, supersedes execution upon such a bond for a certain space, within which time he finds it necessary for him to inhibit his debtor; the inhibition is quarrelled, as contrary to the paction. It is ANSWERED,—Inhibition is not an execution, but merely a diligence for security of his sum. The Lords found it so on the 15th of June, 1669; (see it *supra*, between Brown of Gorgiemilne and Kinloch.) *Vide supra*, June, 1673, No. 399. [Birnie *against* Crawford.]

Advocates' MS. No. 492, § 6, *folio* 258.

1676. *July*. ANDERSONE *against* ANDERSONES, HER STEP-SISTERS.

JAMES ANDERSONE, a merchant in Edinburgh, provides, in his first contract of marriage, a tenement of land he had, to the children of that marriage; he has only one daughter by this marriage; her he bestows in marriage to a mason, and gives him 7000 or 8000 merks of tocher, but takes a renunciation from him and her, she being past 21 years of her age, as to the tenement provided to the bairns of the marriage by her mother's contract-matrimonial, and a full discharge of her right thereto; and then he marries a second wife, by which bed he had two daughters; he dies without disponing that tenement to any. The daughter of the first marriage claims it as being in fee of it, at least pretends to be an heir-portioner as to a third part of it. The two other oppone her renunciation. She answers, she did only that in favours of her father, to give him a power to do with it what he pleased, and not in favours of them, who were not then in being, and he not having used it, her right convalesced, recurred, and accresced. The case seemed so dubious, and the conception of the renunciation so scrimp and narrow, that the daughters of the second marriage were, by their lawyers, advised to give the first somewhat for a composition.

Vide M'Keinzie's Observes on the act 1621, p. 75 *et seq.* See *Codex Fabrianus ad Titulum de Pactis Conventis, tam super dote*, &c. *definit.* 10 *et* 12, *pag.* 562.

See the learned Franciscus Corvanus, *Commentariorum juris Civilis libro* 5, *cap.* 5, where he proves that pactions renouncing their future paternal inheritance are reprobated in law, even though they be confirmed by an oath, which the canon law maintains, the iniquity whereof he there demonstrates; see the Baron D'Isola's Buckler of State and Justice, where he argues the validity of the Queen of France's renunciation to all succession, paternal, maternal, fraternal, sovereignal, against the French lawyers, Aubrey and others, who impugn it.

Advocates' MS. No. 492, § 7, *folio* 258.