

said would appear to free the heir, albeit entered heir, from all pursuit from any debt, heritable or moveable before the year expire, and after the year gives the heir relief against the executor, even in moveable debts, which doth affect properly the heritage and the heir, and not the executors, for so will the words of the act import ; but I am of the mind that the LORDS have now these many years bypast been in use, to find process against the heir within the year, where he was entered before ; and it hath been so decided divers times, as is noted, 29th June 1624, Haliday *contra* Edgar, Durie, p. 131. See INDUCIÆ LEGALES.

Act. Foulis. Alt. ———. Clerk, Gibson.

Durie, p. 376.

No 2.

1629. November 25. DICKSON *against* KER.

AN adjudication, without a spécial charge, was sustained in a competition, though the debtor was not infeft, he being served heir in special, and having also charged the superior to infeft him. See No 1. p. 169.

Fol. Dic. v. 1. p. 131. Durie, p. 469.

No 3.

1635. November 13. DICKSON of Headrig *against* A DONATAR.

THE gift of ward and marriage being gifted and pursued for, by a donatar against ——— Dickson, apparent of Headrig, apparent heir to that prior first apparent heir of that umquhile deceased vassal, who died tenant to the King ; for the action was not pursued against the apparent heir of the vassal, in his own lifetime ; but the apparent heir, whose marriage was gifted, being deceased before any action was intended against him upon that gift, the action was intended against his brother, who was the next apparent heir upon that gift, for that first apparent heir's marriage, who was deceased, and whose marriage was gifted before he died, and not for the marriage of the defender, who was then apparent heir himself, in respect of the other's decease ; and after the intending of this pursuit, this other apparent heir, who was defender, being deceased since the intending of the cause, and the process being transferred in the next apparent heir, and after transferring being insisted upon against him, not for his own marriage, but for the marriage of the first apparent heir, as said is ; in this process, it being *alleged*, That the same could not be sustained against the apparent heir, either of the vassal, or of that apparent heir whose marriage was sought, except the defender were called, either as heir entered to that apparent heir, or as charged to enter heir to him ; for he *alleged*, That this action ought to be considered otherwise than if the vassal's apparent heir were pursued for his own marriage, in which case he being the apparent heir who was convened, it sufficeth ; but in this case, the apparent heir's marriage being craved after his decease, some ought to be called to represent him ; seeing it was craved as a debt

No 4.  
There is no necessity for a general charge to enter heir, in a process for the avail of marriage pursued against the ground. A charge is necessary only where it is meant to make the heir personally liable.