

verted whether he could or not; seeing the reason why one is heard to renounce to enter heir to his predecessors, is only to free himself of his predecessors' burdens, which in this case was not, because it was the defender's own debt, and so he could have no benefit by his renunciation. Yet the Lords suffered him to renounce.

Page 137.

---

1627. *March 27.* THOMAS YOUNG *against* THOMAS IRVING.

James Nasmith as principal, and John Irving his cautioner, being obliged to Thomas Young for 400 merks; John Irving dying, Thomas Young raised charges against Thomas Irving, his son, to enter heir to his father; and upon the said charges raised summons of registration before the commissary of Dunkeld, and obtained the said bond registrate against Thomas Irving, as lawfully charged to enter heir: whereupon the said Thomas Young charged Thomas Irving to make payment to him of the sum and annual-rents: who suspended upon this reason, That the said decret was null, as given *a non suo iudice*; seeing the commissaries cannot be judges to a charge to enter heir, no more than to a decret given upon a service and retour. To this was opposed, *First*, The consent of John Irving and his heirs to the registration of the said bond in the commissary's books; so that *consensissent in iudicem*. *Secondly*, That, by the injunctions given to the commissaries and ratified in Parliament, it is declared that they shall be judges to all and whatsoever processes resulting upon bonds or contracts bearing registration in their books. *Thirdly*, That the suspender had homologated and acknowledged the said decret, by payment of six years' annual-rent, being charged before for it. The Lords inclined all to find the reason of suspension relevant, if it had not been for the homologation; in respect whereof they found the letters orderly proceeded.

Page 184.

---

1627. *June 21.* WILLIAM BRUCE *against* FRANCIS SINCLAIR.

One having comprised the debtor's lands, and thereupon being infeft, and in possession by uplifting the duties; or if he have disposed any part of the same in favours of another, or has set the same to tenants;—he cannot thereafter renounce his infeftment; but if his infeftment be unprofitable by former comprisings, he may.

Page 40.

---

1627. *June 21.* THOMAS ROSSIE *against* THOMAS WISHART.

In a general declarator, pursued by Thomas Rossie, of the escheat and life-rent of Thomas Wishart, which he had gifted by the Earl of Angus, Lord of the regality of Kirriemuir; the Lords found that the summons behoved to be con-