

the LORDS, and almost the whole members inclining to find the reason relevant and competent in the second instance, I reasoned, on the contrary opinion, *ab inconvenienti* to the inconvenient proponed for the wives, because *rerum judicatarum auctoritas firma immutabilis esse debet*; and if this which is now libelled be admitted, and the exception founded upon the first decret of removing be repelled, it shall not be possible to any man to obtain any sure decret against any woman clothed with a husband; because, after that she have compeared, and defended, and vexed the party both with delays and all manner of defences in her husband's time; albeit decret be obtained against her *in foro contradictorio*, yet, after her husband's decease, she shall have place to reduce the decret upon reasons competent in the first instance, and omitted *per* chance wilfully to give occasion for more play; and so it shall not be possible to a man to obtain a certain decret, and unreduceable against a woman clothed with a husband; notwithstanding whereof the LORDS sustained the reason of the findings; the rather because it was founded upon the deed of the defender's father to whom he was heir.

Fol. Dic. v. 1. p. 169. Haddington, MS. No 826.*

No 4.

1628. *January 25.* KENNEDY against M'DOUGALL.

IN a suspension betwixt Kennedy and M'Dougall, Kennedy being decerned, as lawfully charged to enter heir to her father, to pay a debt of her father's, which decret was given against her, she compearing and offering to renounce to be heir; and a term being divers times assigned to her compearing to produce the said renunciation, and failing to do the same, she was decerned as lawfully charged *in foro contradictorio*, as said is. This decret was suspended, upon production of a renunciation to be heir, which renunciation the LORDS found might be received by way of suspension, notwithstanding of the foresaid decret given against her compearing, as said is, without any other process for reducing of that decret, seeing the suspender was then, at the giving of the sentence, and yet was, at the time of reasoning of the suspension, still minor.

Act. Nivalson.

Alt. Primerosa.

Clerk, Scot.

Fol. Dic. v. 1. p. 169. Durie, p. 331.

No 5.
A decree against a minor, as lawfully charged to enter heir, being suspended upon production of a renunciation, the Lords found that this renunciation might yet be received by way of suspension without necessity of a reduction.

1632. *November 24.* HIND against L. WEDDERBURN.

ONE Hind pursues removing, as heir to his goodsire, who was infest in some husband-lands in Coldinghame, against L. Wedderburn and his tenants; and he defending and excepting, that his father had obtained decret of removing against this pursuer's goodsire, to whom the pursuer is heir, by virtue of which decret his father, during his lifetime, and since this defender, hath been in con-

No 6.
A nullity proponed by way of reply, was refused to be sustained against a standing decree, altho'