contra Hay Dalcairn and others. Rents uplifted by the Apparent were found to belong to him for his Aliment, and because the tenants had payed him bona fide. He is allowed to bring the predecessors estate to a Roup whether bankrupt or Not Act 24 Jacob. 5 Par. Because he cannot possess his predecessors estate or any part of or purchase any right thereto, Other ways than as Highest bidder at a publick Roup, without being liable as heir service to the predecessor vid. infra pag. 1448 & 1449 The Apparent heir preferred as the offerer in an Action of Sale and Roup of his predecessors lands, not exempted from finding Caution to make the price forthcoming to the Creditors who should affect the Subject sold. Real Diligence. Albeit the term was Circumduced against all the Creditors except two whose debts Exhausting the price he had got assigned to him; but no real diligence had been used for their debts. Decemb. 1713 Lynne Supplicant.

The Apparent heir may keep his ships goods if they be in his hands, but cannot Recover them from Another Apparent heir, he be served heir, Spottswood pratic. Stit. Heir & Heir ship. The Moveable heirships maybe affected for the Apparent heir's Aliment 27 June 1629 Robertson & Gragnair contra Dalmahoy. But in a Competition of the Creditors of the predecessor and those of such an Apparent heir, some preference is given to the former. Apparent heirs are Entitled to such heritable rights as Require No service of an heir Viz. Jacobs 9 July 1675 Hume contra Johnstone 17 June 1671 Boyd contra Sinclair Rec. pensions and Annual prestations during a certain Number of Years granted to the predecessors and their heirs. In which case the time for which these rights were granted Runs and Expires whether the apparent heir enter, or possess or Not Stair lib. 3 Tit. 5 § 56 & 25 pr. Apparent heirs have also right to such obligations and provisions Conceived in favour of heirs, as by their Nature Require to be fulfilled before the heirs Entry Stair ibid. Obligations in favour of heirs of a Marriage to be performed before the fathers death, as to employ Sums, take lands or other Conquest to himself and the heirs of the Marriage, belong the heirs without service, and heirs in that case are Understood such as might be heirs: seeing otherways the obligation would Evacuate. But in other cases an heir of a Marriage requires Service to Complete his title, as that of Other Heirs Do 21 June 1676 Hay contra E. Tweddale for Clearing that the person to whom he is heir is dead. However Where the same person was heir of line and heir of provision, a General Retour

as heir of line without Infeftment, carried right to the provision 22 January 1706 Livingstoun contra Menzies.

Apparent heirs Nomination substituted in Bonds Immediately to their parents or the Original Creditor, are fulfilled thereto without a service 4 Feb. 1680 Robertson contra Preston 15 January 1625 Watt contra Dobie 15 January 1630 Thomson contra Menzies 26 June 1634 Keith contra Innes. Because such rights are frequent and temporary and of less Consequence than lands. But this is not to be drawn to Rights of Greater Importance, as lands, Rights which being framed to endure to perpetuity, Require More solemnity. Therefore No heir substitute in a right of property of lands can succeed without a service 10 June 1714 Hamilton contra Hamilton of Dalziel. Indeven in bonds, heirs substitute in the second place, must be proved heirs, that it may appear that those appointed in the first are dead or have failed Stair lib. 3 Tit. 5 § 56 & fin. § 25 pr. & § 51 Vers. As to the second question. Thus In here lands being taken to a Man and his Wife the longest liver of them, in Conjunct fee, and to the Bairns procreated betwixt them, which failzing to the husbands two bairns of a former Marriage: It was found, that those two Bairns Nomination substituted above failzing Election of the Marriage to be served heirs 14 January 1663 Beg contra Nicolson. When lands are Disponed to be holden of the Granter and his heirs to a person and the heirs male of his body: Which failzing to the granter and his heirs, the granter of the Disposition, if the substitution take place, Must be heir of provision to the Receiver, and being Infeft in the Superiority, Registration of his Retour in the Register of Seisins, bearing that he hath Right by the Return afore said, and that the property is Consolidate with the Superiority, would Complete his title Stair Answers to Doubts. Doubts 9th Limitation of fees.

A personal bond granted by an Apparent heir, was sustained as an Active title in a Reduction and Declarator of Extinction of Debts and deeds that Might affect the estate of the Deceased: The Pursuer Completing his title by adjudication upon a special Charge before he could further Insist 13 March 1707 Robertson contra Houstoun and Lord Justice Clerk her husband. That is, Process was allowed to be Carried on Without any New Citation: But the Citation had No force as to other effects except from Completing of the title 20 March 1707 Inter Eosdem.

The Creditors of one Deceased are preferred as to his estate, to the Creditors of his Apparent heir, if the former do Diligence against the apparent heir, and the Real estate of the predecessor

within