the Debt must be Constituted against him per Probe by a Decreet upon the General charge, before the Special charges as given 2d/A. Special charge is Served against the Apparent heir for Debt contracted by himself: in which case the Creditor may, without any previous Gen= =eral charge, Charge his debtor to enter heir Specially to his predeces= =sors Lands and Tenements, With Certification if he enter not he shall be Creditor Shall have such process and Execution against these as if he were entred. Such a Special charge may be given and process, af= =ter Elapsing of the days in the charge may follow at any time after the predecessors death. Because, seeing the Year of Deliberation was Mainly allowed, that the heir might have time to Consider, whether it were Expedient to Subject himself personally to the Ground of the Charge to enter heir, and he need not to Deliberate whether he will be Subject to his own Debt. there seems Reason for giving him the benefit of Year and Day before the Spec= =ial Charge be effectual, which, tho he do not Renounce to be heir will not make him Liable to any Debts of the Deceased, except it be by fraud and Collusion with one Creditor to Another's prejudice Stair Lib. 3 Tit. 5 § 23.

Formerly persons Charged to enter heir were not to be Major and of perfect age Act 106 Par. 7 J. 5. But now both general and Special charges to enter heir are allowed against Minors, as well as Majors Act 6 Par. 23 C. 6. Even against such as cannot enter Gra= =tuitously Viz. Minor Apparent heirs in Ward lands Stair ibid. Mackenzie observes on the Act 166. The Reason why such charges to enter heir are allowed against Minors is, because they are necessary for Completing the Diligence of Creditors. Where a Renunciation to enter heir is Subscribed by a Minor with Consent of his Curators the Curators are not bound as Cautioners for the Minor, or to Warr= =rand that deed, but only give their Consent 26 June 1624 Dalrymple contra Drummond contra L. Cunninghame Lead. Upon a special charge to enter heir whether for the predecessors Debt or the Apparents heirs own debt, the lands and heretage Whereto he was Charged to enter may be adjudged from him as his own property. But as is before observed, the Predecessors Creditors adjudging within three Years after his death are preferred to the Creditors of the Apparent heir Act 24 Par. 1 Jas. II. Ch. 2. A Charge to enter heir at one persons instance will not serve another at whose instance it was not Raised Spots wood Prat. Tit. Heir and Heirships.

There is no Necessity of a General or Special Charge to enter heir, in order to pursue Reductions Declarators or Real Actions; Which are Competent against Apparent heirs without a previous Charge 2 January 1667 Oliphant contra Hamilton Stair Lib. 3 Tit. 5 § 23 Iuris.

The Apparent heir may free his person and properties lately from Distress by Process, upon a General or Special charge for his predecessors Debt, by Renouncing the Inheritance in due form and time while things are intire, that is, before he has done any Act which Implies his Acceptance of the Succession L. 13 pr. D. de Acq. vel Omit. Hæred. L. 16 D. de Jure Delib. For he who being of age takes upon himself once the quality of heir, can never Cease to be such nor divest himself of the Character upon any pretence whatsoever L. 7 § 10 in fin. D. de Minor. L. 8 pr. D. de Acquir. vel omit. Hæred. For an Apparent heir who is Major appears in a process upon a Gene= =ral Charge he Must offer to Renounce the Benefit of Exaction and take a day to give in his Renunciation: For it will not be Received by way of Suspension, if Decreet were against him for not Renouncing Stair ibid § 24. But a Decreet in absence against one who is Major as Lawfully Charged to enter heir, may, upon production of a Re= =nunciation of the Inheritance Pro indempnis and payment of the Executors Expences, be Recalled in order to free the Apparent heir from personal Execution; but not to stop any Real Execution thereon by Adjudication or other ways against the Estate of the De= =ceased 20 July 1626 Flavie contra Baron Stair ibid. A Minor pursued as Charge to enter heir was, after Elapsing of a term taken by him to prove a peremptory Defence allowed to pass from that Exception and to Renounce to be Heir 11 June 1681 Gardiner contra Drum= =mond. A Decreet in foro against a Minor as Lawfully Charged to en= =ter heir, was Suspended upon production of a Renunciation without Necessity of a Reduction, the Reason Stated Minor when the Suspension was Raised 25 January 1682 Kennedy contra Mc Donald. But if the Minority Cease Contravented, or not Instantly Verified it can only be Reduced Stair ibid. A Renunciation of the Inheritance was Received with this quality, that not withstanding the Renun= =ciation the Renouncer might enter heir of Provision to the De= =ceased in certain lands provided to him and his heirs by the Decea= =sed in the Renouncers Contract of Marriage whereupon Inhibi= =tion was used before Contracting of the Debt owing to the Plain= =tiff. Albeit it was alledged, that the Deceased was the only Debt= =or to the Apparent heir Renouncing 23 January 1627 Lady Ogilvie contra Lord Ogilvie. But in like case (Hope Maj. Prat. Tit. Inhibition Thornton contra Baillie) one was Suffered to Re= =nounce to be heir to his grand father except as to lands Dis= =poned by the Grand father to the Apparent heirs father in his Contract of Marriage, whereupon Inhibition had been used, which the Lords Reckoned a singular Title Consistant with a Renunciation of the Heretage ex titulo Universali Stair Lib.