

there is no necessity to distinguish Real Estate, Real Estate and Personal Moveables. It follows Apparent heir of line having Renounced <sup>the</sup> third Moveable in favour of his father, his heirs and Executors, the right Renounced was found not to Return Back to the Renouncer after his father's death as heir of line again to his father but to belong to the father's Executors 18 January 1668 Pollock contra Beach and ther. foud. 27 The heir of line falls to be tutor of lands as Peirell as usual to a pupil heir lib. 3 Tit. 5 § 10 Jus fin. Br. Diol. or funds person M. Kenzie observ. on Act 18 Par. 10 P. 6.

The Heir of Conquest, succeeds to lands or heritable rights Acquired by his Ancestors, Predecessors, whose upon the death of the Right follows; and to the heirs of such heirs, the heirs of Conquest succeed. M. Kenzie Jus. lib. 3 Tit. 8 § 12 That heritable bond bearing a Clause of fulfilment, but whose upon no fulfilment followed, was found to belong to the heir of Conquest or purchase 21 July 1676

An Heir of Conquest is found to have right to the heritable bond principally, the promise of an Annual rent, albeit there was a clause of Redemption, Resignation July 1675 Robertson contra Lord Pat. for bond. It is whether a publick Waiver of herilage being Redemmed and the Heir for Redemmed the property of the lands would be decedent herilage or conquest. If answered, if the lands return to the heir formerly subject or to his heirs, they continue herilage; but if an assignee to the Resignation and he is subject, they are conquest. Craig foud. lib. 2 Tit. 6 § 9 Stair lib. 2 Tit. 10 § 12. The Successors heirs in conquest have little in Common with a provision of Conquest in a Contract of Marriage. If the Land or real Right purchased by the Heir falls whether by gift and grant or by Industry and forfeiture, the conquest is not evaded by the heir of Conquest. The provision of conquest in a Contract of Marriage doth not reach to rights falling by Reversion or by gift 29 January 1678 Stuart contra Stuart 17 July 1730 Mercer contra Mercer & Mice her husband. An heir of Conquest is not bound to believe the heir of line of debts contracted before making the Acquisition, but might claim Relief thereof from him 20 Decemb. 1668. Kelbueh contra Lady L. but 21 January 1629 Lady Lambour contra Ranton 23 Decemb. 1668. Smith contra Mire. It is not Redemmed to be Conquest. Feudum Novum, when one acquires by a singular title from his grandfather or father to whom he was a Successor, he is not bound at the time, but proscriptio hereditatis, and so would fall to the heir of line as herilage, Craig foud. lib. 2 Tit. 7 § 7 Jus fin. But after an heir of Conquest hath once succeeded, that which he had was Conquest hereditatis, and depends to his heirs of line as at the third of four brothers die the second is his heir of conquest; which Conquest lands would upon his death descend

to the Youngest brother, and not go upward to the eldest as far as necessary 1678 Stuart contra Stuart Craig foud. lib. 2 Tit. 13 § 7 Stair lib. 3 Tit. 5 § 10 Jus fin. pr.

When an heir of line Conveys with an heir substitutes the former has right to every thing not specially provided to the latter Stair ibid. Tit. 4 § 34 Ver. Heir of tailors

#### Chap. 4.

The Passive Interest of heirs, is the Engagement and binds them they are subject to after or before their Entry, called passive titles: because they fulfill the Creditor of the deceased predecessor to put the heir to suffer by paying what is due to them.

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#### Tit. 1.

The Passive title to which heirs are liable by being Entered.

If an heir Enter with the benefit of an Inventory, made quoad us recorded and Extracted in due form, he is answerable no further than to the Value of the herilage contained in the Inventory, Act 29 Feb. 3 Par. 14. He is no further accountable for debts of the deceased, though as these are goods in the Succession sufficient to acquit them. The Heir of line served cum Beneficio Inventarij, having the Intromission with the Estate of the deceased, but what was Excommunicated by payment of prepaite debts, and being Debarred from the Act by a Commission for preference with the heir male; was not found personally liable to a Creditor of the deceased, if the words of the Inventory to him; but debarred either to assign the Inventory, or pay the Debt 8 Novemb. 1712 Wint contra Lord and Lady Hawley. Where an heir cum Beneficio Inventarij had sold part of the Inventoried estate, and a Creditor of the predecessor had bought the price in the purchase of Land, in an Action of forthcoming at the Instance of the Creditor, it was pleaded for the heir, if there not being sufficient fund to answer all the predecessor's debts, the purchaser could draw but share proportionably with the other Creditors according to the value of the respective debts Calculated at the time of the Heir's Entry by Inventory, and the several Claims were so far as possible Diminished, at least quoad the heir who by law is protected from