accresces to the principal executor, as every *accessorium sequitur suum principale*; so here the price eiked must belong to Robert, and must be transmitted by his legacy to the Lady Grange, his sister. THE LORDS found, seeing Robert was confirmed one of the executors under protestation to eik, and that it was not then clear, whether the price would fall under the executry or not, but was so determined after his decease; that his transmitting it to his sister by testament, gave her his share of the price, as if it had been actually confirmed in the first inventory, and though he was dead before the same was eiked. No 6.

Fol. Dic. v. 2. p. 2. Fountainhall, v. 2. p. 500.

1729. *December* 17. SHEARERS *against* WILSON. No 7.

A Commissary, upon application made to him, having inventoried and sealed up the defunct's writs, and taken them into his custody, was decerned to deliver them up to the nearest of kin of the defunct, though they were not confirmed executors *qua* nearest of kin; which was found upon act 26th, Parl. 1690, discharging the necessity of confirmation; for this statute supposes that where the relict, children, or nearest of kin are willing to subject themselves universally to the defunct's debts, they may enter to possess without any confirmation. Hence the successor, whether in heritables or moveables, may continue the defunct's possession, without making up titles; and the relict, or nearest of kin, without confirming, may recover possession of what has been unwarrantably intromitted with after the defunct's death. *See* APPENDIX.

Fol. Dic. v. 2. p. 3.

1731. *February* 2. CAMPBELL *against* M'LEOD. No 8.

A son having accepted of a property from his father, and renounced all he could ask or crave by his father's death; his children, who were nearest of kin to their grandfather at the time of the confirmation, were excluded in competition with a remoter decendant of another child who had not renounced.—THE LORDS went upon this footing, that a father, by taking such a renunciation, means to exclude, not only the renouncer, but his or her descendants, reserving his effects to his other children and their descendants. But this exclusion will not have place where the competition is with the fisk, or even with collaterals; and some of the LORDS were of opinion to carry the exclusion no farther than in favour of the children themselves, not of their descendants. *See* APPENDIX.

Fol. Dic. v. 2. p. 4.