

the same mails. And further, he could not allege but he had meddled with the said mails, as succeeding to his father, because his father had set a tack to the tenants in his time; and the defender had uplifted the tack-duty from them, whereby he acknowledged his father's right. To this last part, Answered, Before a warning, he could get no other duty from the tenants than that they were in use to pay. This got not an answer, because the advocate, (who was for the pursuer,) seeing the Lords incline to the defender's part, passed to another allegiance. But the whole Lords almost seemed to be of this opinion, that, *in gestione pro hærede, est plus animi quam facti*, and that one cannot behave himself as heir *sine animo gerendi*; and that, in this case, the defender might very well declare *quo animo fructus perceperit*, and ascribe his intromission to his grandfather's right; thereby to free himself of the pursuit.

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1637. March 15.

BROWN against LANDS.

MOVEABLES pertaining to a person interdicted, are liable to the payment of his debts, and may be poided therefore, notwithstanding of the interdiction. Bruce against Forbes, 11th July 1634: for interdictions are not extended to moveables, (no more than inhibitions,) neither free they the person interdicted from personal execution. This was found between Brown and LANDS.

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1626. July 27.

MACKULLOCH against MACKULLOCH.

FOUND that the Act Ja. I, Parl. 9, 113, anent the vitiation of brieves, should be extended as well to the execution of the brieve as to the brieve itself. *Vid. Cr. l. 2, d. 14, usque ad finem, de Brevibus.*

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1628. March 20, 22, and 25. ——— against ———.

No process against any tenants for abstracted multures, if their master, who is heritor, be not summoned, though it be alleged that they were in continual use of bringing their corns to the pursuer's mill as thirled thereto, and of paying the accustomed dues in thirlage past memory of man.—20th March 1628.

In the same action, Alleged by the defenders, that the summons was not relevant for the knaveship, bannock, gowpen, &c. because these particulars are only due to the miller and his servants for their attendances, and not to the master; and therefore could not be craved, unless their corns had been grinded there. Replied, That ought to be repelled, in respect of his infetment bearing him to be infet in the multures with the sequels; in fortification whereof he offers to prove continual possession of the same. The allegiance was repelled, in respect of the reply.—22d March 1628.