

was done; and if that was necessary, then he being dead, the process behoved to stop till his heirs were called. The President agreed that it was necessary at first to call him, but the Company being in the field they were still in the field, notwithstanding his death; and upon the question the objection was repelled; *renitent*. Kilkerran, Kames, Woodhall, *et Me*; and we unanimously repelled the other defences, and decerned in the forthcoming.

BASTARD.

No. 1. 1747, June 20. REID *against* OFFICERS OF STATE.

THOMAS REID, as creditor to one now deceased, who was a bastard, pursued a process of cognition, and adjudication of his estate heritable and moveable, against the Officers of State, for having it declared that the defunct was a bastard, that the pursuer was a lawful creditor, and that the estate was affectable for his debts, and therefore to be adjudged to him. The Ordinary had allowed him a proof of the bastardy, and so it came before us as concluded to advise that proof. At first we doubted of that form of process, and therefore delayed till this day, when we agreed that the estate was liable and affectable; and where there was no donatar intromitting, thought this was the only way competent to a creditor, agreeably to Stair, Tit. CONFISCATION, § 46 and 47.

BATTERY.

No. 1. 1742, Feb. 18. DICK of Grange *against* STEILL.

GRANGE having attacked Henry Steill, (with whom he had a depending process) and his son and four servants, and given him a box on the ear and beat off his hat and wig, on a dispute about some cartfuls of dung, which Steill resented no further than by holding Grange fast till he cooled; the Lords on a summary complaint of battery *pendente processu* assoilzied Grange because of his known circumstances, that he was little better than an idiot;—as for the same cause they refused the like complaint against him in summer 1741, where indeed there seemed to be something like a snare laid for them.

BENEFICIUM COMPETENTIÆ.

No. 1. 1734, Dec. 6. ANDERSON *against* GEDDES.

THE Lords seemed to think that by our law the *beneficium competentiæ* is competent, and remitted bill and answers to the Ordinary in the sale.