

that it might be lawful for him to acquire, to his own behoof, rights affecting the pupil's heritage. No 69.

1712. *January 4.*—IN the count and reckoning at the instance of John Murray against James Murray, mentioned *supra June 16. 1710*, the LORDS found, that the defender having acquired a right to the lands of Conheath, from Elizabeth Maxwell, his mother, before the pursuer granted to him the factory, and entered to the possession by virtue of an apprising acquired by him during the factory, he could not alter or change the title of his possession, but must be understood to possess by virtue of the apprising, and be countable to the pursuer for his intromissions, ay and while the said right be extinct, or he denuded thereof in favour of the pursuer; but found, that after the said apprising is extinguished, or the defender denuded thereof, as aforesaid, he may compete for the possession.—See PACTUM ILLICITUM.

Fol. Dic. v. 1. p. 599. Forbes, p. 411. & 569.

S E C T. VII.

Possession must be restored at the termination of the Right.

1583. *November.* CUNNINGHAM *against* COOK.

THE LORDS found, that, if a person who has heritable right to lands; shall thereafter take a tack thereof, he may be decerned to remove from the same (notwithstanding his heritable right) at the issue of the tack, without prejudice of his heritable right, *in judicio petitorio*.

Fol. Dic. v. 1. p. 599. Colvil. Spottiswood.

* * This case is No 26. p. 6424. *voce* IMPLIED DISCHARGE AND RENUNCIATION.

1591. GEORGE HARRIS *against* ANDERSON.

GEORGE HARRIS having pursued one Anderson for ejection, obtained decret, and for the violent profits comprised the lands; and after comprising, obtained infestment and sasine thereof, and warned the tenants to remove; and having gotten decret of removing, was, by virtue thereof, put in possession. This