

defunct's possession, and drank therein and used it at his pleasure, and did wear his green silk shanks; this allegiance was sustained to make him heir, and that he could not renounce, albeit he *alleged* that such intromission was no intromission which could burden him, the bed and macer being yet undisposed upon by him, and that the same pertained not to the defunct, but pertained to their mother, who gave her umquhile son the use thereof; and after his decease she meddled with the same, her said umquhile son remaining in a chamber within that same turnpike where the mother dwelt, pertaining to her, and where he was entertained and supplied by her; likeas her name was engraved upon the macer and she intromitted with the same; notwithstanding all which, the allegiance was sustained to make him heir, specially seeing that he dwelling in an house of his own when the brother died, he, after his decease, left his own house and entered and dwelt in that house where his brother died, which was sustained, albeit he *alleged* that it was done by his mother's warrant to whom that house where his brother died pertained, and where she received him; but it was *alleged*, that this heir of line, after his brother's decease, locked the door of the house and kept the keys thereof, and suffered none to enter while he entered himself.

No 21.

Act. Cunninghame.

Alt. Herriot.

Clerk, Scot.

Fol. Dic. v. 2. p. 27. Durie, p. 481.

1636. January 27.

STRAITON against CHIRNSIDE.

WHERE the predecessor had died at the horn, his escheat gifted and declared; the apparent heir's intromission, after the declarator, with moveables that were in the defunct's possession, did not infer behaviour; because it was not intromitting with his predecessor's goods, but with what belonged to the donatar, and which intromission, therefore, could be of no prejudice to the predecessor's creditors.

No 22.

Fol. Dic. v. 2. p. 28. Durie.

\*.\* This case is No 17. p. 5395. voce HEIRSHIP MOVEABLES.

1663. February 21.

STIRLING against CAMPBELL.

AN heir's intromission with the whole silver work, is a behaviour as heir, since therein is comprehended the best of the kind which is the heirship.

No 23.

Fol. Dic. v. 2. p. 27. Stair.

\*.\* This case is No 8. p. 9656.