

No 7.

tromitting, behaved as heir, the apprising being but a security, of which the appriser might make no use, or but in part, as he pleased.

Fol. Dic. v. 2. p. 27. Stair, v. 1. p. 185.

No 8.

1663. February 21.

STIRLING against CAMPBELL.

THE same last point was found betwixt these parties, and also that the heir's intromission with the whole silver-work, so comprehending the best of them, which is the heirship, was *gestio pro hærede*.

Fol. Dic. v. 2. p. 27. Stair, v. 1. p. 185.

No 9.

1667. January 16.

REID against SALMOND.

REID pursues Barbara Salmond and James Telzifer, her husband, for a debt due by her father, as behaving herself as heir, by possessing a house wherein her father died infest, and by setting another house of his to tenants. It was *answered*, That James Telzifer was tenant in the house possessed by him, before the defunct's death, and might possess, *per tacitam relocationem*; neither could he safely leave the house, till he had given it over to some having right.

Which the LORDS found relevant.

2dly, It was *alleged*, That the defunct had disposed the same tenement to the defender's son, his oye, which disposition, albeit it attained not infestment, yet it was a sufficient title for mails and duties, and to continue possession, and to purge the vitious title of behaving as heir.

Which the LORDS found also relevant.

Stair, v. 1. p. 427.

No 10.

1671. July 11.

MAXWELL against MAXWELL.

WHERE the appriser was infest and in possession, and the defunct not in possession, the apparent heir's intromission with the rents was found not *gestio pro hærede*.

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

* * * This case is No 50. p. 5306. *voce* HEIR APPARENT.