

tally compleat, could never be a ground to pursue for mails and duties; no more in a process of adjudication, can the mails be acclaimed before the sentence of adjudication were first given. THE LORDS repelled the allegiance; and found this process might be sustained, both to crave the right of the lands, to be adjudged in one summons, and the profits decerned also; the first being found to crave the bygone mails uplifted, even as in a non-entry, the lands being decerned, or craved to be decerned, to be found in non-entry; the donator in the same summons may crave the profits to be liquidate, and decerned; and, as in a declarator of escheat, the general declarator may be sought for declaring the rebellion; so also the special declarator for the particular profits of the lands, in one and the same summons. See July 21. 1736. betwixt these parties*.

In this process, the pursuer's procurators having past from any craving of a particular adjudication, either of lands, teinds, or any writ of the same; and only craving generally, adjudication of all right which was competent to the defunct, in the defunct's person, to any lands, teinds, goods, or gear whatsoever, generally. This general adjudication was sustained, although craving nothing specially to be adjudged.

A&C. *Advocatus.*Alt. *Nicolson, Gilmore and Dunlop.*Clerk, *Scot.**Fol. Dic. v. 1. p. 3. Durie, p. 867.*

1680. January 27. M'CALLA against COUSTOUN and GUILL, &c.

MALCOLM M'CALLA having pursued James Coustoun, as representing his father, for payment of his father's debt, as charged to enter heir to him; he renounced to be heir, and was affoizied; and M'Calla obtained adjudication, *contra hereditatem jacentem*; but thereafter, Coustoun enters heir to his father, and assigns his right to one Guill; and they jointly pursue reduction of the adjudication, and offered to satisfy the debt. It was answered, That Coustoun having once renounced to be heir, had no recourse against that party, to whom he renounced, nor any reversion of his adjudication, which was competent to other creditors adjudging, and no way to Guill as assignee to Coustoun.

THE LORDS found Coustoun having renounced or assigned, he had no reversion, or recourse to satisfy M'Calla's adjudication.

Fol. Dic. v. 1. p. 3. Stair, b. 2. p. 749.

No 4.

No 5.

An Adjudication being led *contra hereditatem jacentem*, upon a renunciation; the heir afterwards entering, found to have no right to redeem the adjudication.

* The former dispute here referred to, between the same parties, Durie p. 820.; regarded a mere matter of fact: Whether the defender had intromitted with rents, in right of his father, so as to subject himself as heir; or in right of another person; his father having no title to the property?