

No 13.

1610. March 8.

BAILLIE against HOME.

A MAN found to be heir to his father, by intromission with his table, standing-bed, and almerie; albeit he *alleged*, That they were in the house, whereof he was fiar, in his father's lifetime; because he should have entered to the possession by the Sheriff, with inventory of the gear, being therein to be made furthcoming to all parties having interest, seeing he intended not to be heir.

*Fol. Dic. v. 2. p. 27. Haddington, MS. No. 1853.*

No 14.

1618. February 7.

FALSIDE against NAPIER.

IN an action of reduction *ex capite inhibitiouis*, by Falside against Napier, Lady Ogilvy, the LORDS found, that in respect James Lord Ogilvy had immediately after his father's decease purchased ——— by deliverance of the LORDS for taking inventory of the hail goods and gear pertaining to his umquhile father, conform to the which, inventory was taken by the Sheriff; that therefore he could not be convened as heir for intromitting with any of his heirship goods and gear pertaining to him; and when it was duplied, that they offered them to prove, that he meddled with certain heirships not expressed in the inventory, the LORDS found that could not be had, in respect of the inventory taken, *et quia abfuit animus gerendi pro hærede.*

*Fol. Dic. v. 2. p. 28. Kerse MS. fol. 138.*

1622. November 6. L. DUNDAS against ——— HAMILTON.

No 15.

In a suit upon the passive titles, where the intromission was with trifling articles, and the claim laid on a decree of spuilzie 36 years old, the Lords found intromission probable only *scriptis vel juramento.*

THE deceased L. of Dundas obtained decret against umquhile ——— Hamilton of Peill, for spuilziation of teinds; which decret being desired to be transferred, at the instance of Sir James Dundas, executor to his father, obtainer of the sentence, against the oye of the said umquhile Hamilton, against whom the spuilzie was decerned, as heir by progress to him qualified in the following manner, viz. in so far as the pursuer offered to prove, that the oye defender was heir to his umquhile father, which father was heir to his father, who was decerned in the spuilzie, at the least, he behaved himself as heir to him, in so far as that after the decease of his said father, who was decerned, he had intromitted with his father's heirship goods underwritten, in manner after qualified, viz. that by the space of four years, or thereby, after his father's decease, he had entered, and dwelt in the house of Peill of Livingston, pertaining to his father, where there being then within that house, his umquhile father's best board and standing bed, with a brewing cauldron, he used the same by eating at the board, lying in the bed, and brewing in the cauldron; likeas, he