

*answered*, That by the law and custom of Scotland, the crop of corns, or industrial fruits, are never accounted as *pars soli*, or any accessory, but are still moveable, even when they are growing, so that they belong, not to the heir, but to the executor; and, in case of a disposition, without mention of the crop, albeit the acquirer were infeft after they were sown, and upon the ground, he would not have right thereto; neither doth *mala fides*, or violent possession, alter the case, for which the law hath provided a special remeid, viz. the violent profits; but it can be no ground to meddle with the party's crop; *brevis manu*, as accessory to the ground, for then the parties should both lose the crop, as *pars soli*, and be liable to the violent profits; neither is there any ground from the warning, nor yet from the decret of removing, which was suspended before it attained full effect, and the defender continued in possession of a house upon the ground, albeit he was put out of the principal house. It was *answered*, That the decret had attained full effect before the suspension, all the pursuer's goods being off the ground, and he out of the mansion-house, wherein the defender entered, and brought all his goods upon the ground; and though the pursuer's mother being a valitudinary impotent woman, was suffered to remain in a cot-house, and the pursuer with her, upon that account, that imports no continuance of possession of the land.

THE LORDS repelled the defence, as to that part of the crop that was sown before the apprizer entered by the letters of possession, reserving to him the violent profits for that time: but found the defence relevant, as to what the pursuer did after the defender's dispossession; and found the defender only liable for the expenses of the labouring and the seed, as being *cautus locupletior factus*. See TACK.

*Eol. Dic. v. 2. p. 317. Stair, v. 1. p. 727.*

1676: January 18. BINNING against BROTHERSTONES.

ALEXANDER BINNING having reduced a right of some tenements in Edinburgh granted to Brotherstones, he pursues him to remove, who *alleged*, that he had *jus retentionis* till the meliorations of the tenement were satisfied. It was *answered*; That what meliorations he had made, were *in suo*, he having then an infeftment of fee, which being reduced, the meliorations pass as accessory, and he enjoyed the mails and duties all that time.

THE LORDS found, that the defender ought to have no satisfaction for what expenses he gave out to keep the tenement in as good condition as he got it, but only for other meliorations, as would be profitable to the pursuer, by raising of the rent of the tenement.

*Eol. Dic. v. 2. p. 316. Stair, v. 2. p. 401.*

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No 5.

A removing after a reduction was stopt till the meliorations were paid.