stance or precedent of it. However, the plurality extended it even to that, which is the highest of all secular crimes, and, by their certificate, declared in these terms. *Vol. II. Page 524.*

1709. *November* 16. Sir William Menzies of Gladstanes *against* Sir Robert Dickson of Inveresk.

Menzies against Dickson. Sir William Menzies of Gladstanes, and sundry others, having taken a tack of the customs from the Lords of Treasury, in 1691, for five years, they made Sir Robert Dickson of Inveresk their cash-keeper, solicitor, and book-keeper. At the issue of the tack, they craving sundry deductions from their tack-duty, and the Exchequer not inclining to allow them, they were charged with horning; whereupon sundry of the tacksmen absconded, and Sir Robert Dickson went to London to negotiate their common concern; and, after his return, the Lords of Treasury and they having concerted the business, they got some deductions. There having great profit arisen from that tack, upwards of £48,000 sterling, and Sir Robert, the cashier, declining to count for his intromissions, Sir William raises a process of count, reckoning, and payment against him; in which Sir Robert Dickson craving allowance, (besides many other articles of expenses claimed by him,) of £500 sterling expended in his voyage to London, where he applied to King William, and got favourable returns, that were very beneficial to the whole society, and had influence on the deductions afterwards obtained:

Answered,—That, by his commission, he was to act nothing in expending their money, without a warrant from a quorum of the tacksmen; which he cannot pretend he had for his London voyage. Likeas, the gratuities he gave there signified nothing to the advancement of their business; their deliverance came quite another way. And he was so far from being put to borrow or advance money for them, that *intus habebat* much more than would do the turn; but with their money he purchased considerable bargains of lands.

Replied,—Though he had no special warrant and commission to repair to London, yet his general employment, as their solicitor and cashier, empowered him sufficiently to do what might tend to the benefit of the society; and it was *utilis negotiorum gestio, et in rem versum* to the tacksmen.

The Lords thought he should have applied for a special warrant and instruction before he went; but if he could yet prove it was *utiliter gestum*, there might be some ground to modify something to him on that account: and therefore allowed him to condescend and instruct what was the services he did the company by going to London, and then they would consider what it might deserve.

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1709. *November* 19. Walter Gibson *against* Mungo Cochran.

Walter Gibson, late Provost of Glasgow, gives in a bill to the Lords, that he had consented to Mungo Cochran's being nominated factor on his estate;