

performed ; so that, according to this computation, instead of one year and a half's fee, there will be two and a half due. No 307.

2do, It is acknowledged by the defender, that Archibald Duke of Argyle died in October 1703 ; of course, the year after that, as being the *annus deliberandi* indulged by law to the defender, to consider whether he would enter heir to his father or not, cannot enter *in computo* of the three years ; because, during that year, he could not be pursued *cum effectu*, as was found 16th July 1708, Thomson, No 295. p. 11093. Setting then aside this year, the pursuer is entitled to three years and a half fees ; so that the remaining dispute is *de minimis, de quibus non curat prætor*.

THE LORDS found the process did only interrupt the prescription, as to what fees fell due within three years of the commencement of the process ; and found the prescription did run during the *annus deliberandi*.

*C. Home, No 32. p. 62.*

1737. January 14. FERGUSON against MUIR.

HOUSE rents prescribe *de anno in annum* though the tenant continue in possession ; and the tenant's removal does not give commencement to the prescription, as in land rents ; though it was argued, that possession ought to be an interruption in this case, as well as the contracting new articles in the case of merchant-accounts. See APPEEDIX. No 308.

*Fol. Dic. v. 2. p. 121.*

1740. February 19. DRUMMOND against STEWART.

IN an action for payment of an account of disbursements laid out about 30 years ago by the pursuer, upon his friend's affairs as *negotiorum gestor*, the question was, whether this fell under the general words in the act 83d, Parl. 6th, Ja. VI introducing the triennial prescription, " other like debts not constitute by writ ;" upon which the Court was much divided, insomuch, that upon advising a petition against the Ordinary's interlocutor sustaining the prescription, of eleven Lords then present, besides the President, five voted for altering the interlocutor, three for adhering to it, and three were *non liquet*. No 309.

But upon advising the petition against this interlocutor, the LORDS by a much greater plurality, " adhered to their former interlocutor," upon this ground, that by other like debts was to be understood other debts of the like nature with those particularly expressed in the statute ; and as all the particu-