

*auctoritate jus sibi dicere.* THE LORDS found he might not have cast down the said mill by way of deed.

No 65.

*Fol. Dic. v. 2. p. 343. Spottiswood, (HUSBAND and WIFE.) p. 154.*

1597. February. EARL of ERROL against LUDQUHAIRN.

THE Earl of Errol pursued the Laird of Ludquhairn for contravention of an act of law-borrows, because the said Laird's son invaded and pursued Alexander Cheyne, servitor to the said Earl, for his slaughter, with a drawn sword, the said Nathaniel being unforisfamiliaried, and received by his father after the deed done. It was *alleged*, That no contravention could be obtained against the said Laird, because the said Nathaniel being charged by himself, had found caution. It was *answered*, That the Laird had found caution for himself, his bairns, and all whom he might have, which behoved to comprehend the said Nathaniel his son. THE LORDS found, That the pursuer might pursue Ludquhairn and his cautioner and that the action was competent against the said Nathaniel and his particular cautioners. *2do*, It was *alleged*, that Nathaniel was forisfamiliaried, because his father had given him heritable infeftment of certain lands, and that they offered him to prove, that he was household feed servant to the Laird of ———. It was repelled, as contrary to the summons, because that he was in household with his father unforisfamiliaried.

No 66.

Contravention sustained against a father, who had found caution in lawburrows upon a fact committed by his son unforisfamiliaried, and received into his father's house after the fact.

*Fol. Dic. v. 2. p. 343. Haddington, MS. No 611.*

1610. May 31. BELL against Hoc.

A WIFE being acted in the books of the session to abstain from the company of a slanderous man, under a pecunial pain, albeit her husband have consented to the act, she being thereafter decerned by that session to have contravened that act, and being charged for the penalty, the same will not have execution against the executors of her deceased husband, because it is not thought reasonable, that the husband's goods shall be evicted for the penalty of an injury done by his wife to himself.

No 67.

*Fol. Dic. v. 2. p. 344. Haddington, MS. No 1872.*