

No 14. *ad leg. Cod. de jurisdictione omnium judicum, and responsa juris-consultorum Hollandiæ, par. 3. vol. 1. Cod. 174.*

A decret pronounced in the manner sought could be of no effect, and receive no execution against an absent; and therefore ought not to be granted.

Pleaded for the pursuer; The decret will be of great consequence to her, as it will determine her state and condition in the place where she is, as well as that of her child.

Pleaded for the defender; The intention of the action is, that he may be decreed to adhere to, and aliment her, which can have no effect. It is to that purpose that she must have a proof of the marriage; and it is only in consequence of the direct purport of the plea that her state will be declared.

At advising, it was much insisted on, and seemed to weigh greatly with the Court, that it was *quæstio status*, and the mother as well as child had a right to have their state and condition ascertained; and this ought to be competent to them in the place where they lived, and they not put to hunt after any body through the world in order to it.—THE LORDS refused the bill.

Lord Reporter, *Minto*.

Act. ———.

Alt. *Lockhart*.

D. Falconer, v. 1. p. 97.

* * * See No 104. p. 4594.

DIVISION III.

Forum Delicti.

1543. June 23.

LUNDIE against TENANT.

No 15.
Forum delicti
was found sufficient to make the Judge of the place competent, though the defender did not reside within his jurisdiction.

JOHN TENANT askit an cause of spuilzie intentit against him be Captain Lurdie before Archibald Betoune judge of the regality of St Andrews, to be advocatit before the Lords, because he had nae dwelling place there; nevertheless the said Archibald was judge competent to him in this case, because the land upon the whilk the spuilzie was made was within his jurisdiction, 'et ita ratione rei de qua agebatur, dictus Joannes ibi sortiebatur forum rei; et hoc per L. unicum C. ubi de possessione, et per pan. in cap. si extra. de foro compet. et ita contra dictum Joannem sententiarunt domini concilii.

Eol. Dic. v. 1. p. 326. Sinclair, MS. p. 52.