

less he sould have callit the possessouris of the saidis gudis and geir to have heard the samin decernit to pertene to him be virtue of his gift.

No. 40.

*Balfour, p. 471.*

1543. February 23.

RHIND against MAY.

No. 41.

Andrew Rhind got a gift of the common clerkship of St. Johnston, and was in possession of the office by virtue thereof, and thereafter Mr. Duncan May got the King's request to the Provost, Bailies, and Commonty of the said town, to give the said office to him as vacant by the decease of him by whose decease the said Andrew had gotten it, and at the said request they made a new gift to the said Mr. Duncan, and he by virtue thereof possessed the said office seven years or thereby: Then the said Andrew called the said Mr. Duncan for spuilzieing him of the said office. He excepted, that in the uptaking of the said office, he did no wrong nor spuilzie, because he was entered thereto by virtue of his gift, and the Provost's and Bailies' authority. The Lords, notwithstanding, decerned him in spuilzie, because he entered into the said Andrew's office, and put him forth thereof without order of law, he never being called nor orderly destitute of the said office.

*Sinclair MS. p. 46.*

1543. February 26.

WAUCHOPE against BORTHWICK.

No. 42.

William Wauchope, agebat de spolio quorundam bonorum contra Borthwick, qui exceptit quod ipse virtute precepti vicecomitis sui, got these oxen apprised to him for a sum that he had obtained against the said Wauchope by a decret of the Sheriff, et quod excusari spoliatio virtute precepti et auctoritatis judicis deberet, quamvis ei per dictum decretum debitum esset solutum. The Lords decerned and condemned him in the spuilzie of the oxen, notwithstanding they were apprised to him by an officer, *quia* he was *in culpa lata*, and received the precept wrongously, nothing being owing to him.

*Eol. Dic. v. 2. p. 391. Sinclair MS. p. 41..*

1575. November 30.

MUIRHEAD against LAWSON.

No. 43.

Marion Muirhead, relicta quondam Richardi Ramsay pursued Robert Lawson for spoliatio of certain goods, corns, cattle, and insight. The defender alleged, that her umquhile husband was denounced rebel, and he donatar to his escheat of all goods; and the gear alleged by the pursuer to be spuilzied, was the said

A donatar intromitting with goods in possession of the rebel's relict, before it