

1558. *January 24.* JOHN TURNER *against* HECTOR BLACKADER.

It is to wit, that ane howe passand fra ony man's place to his coil-heuch, to carry and fetch hame coillis, may be poindit and comprisit for debt, or for ony decrete obtenit aganis him befoir ane judge.

*Fol. Dic. v. 2. p. 95. Balfour, p. 400.*

No 5.

1560. *February 12.* JOHN CRICHTON of Strathurd *against* N.

NA man may poind his tenent for thé arriage and by-run maillis, bot for thre termis allanerlie, immediatlie preceding the time of the poinding, except he have the decrete and authoritie of ane judge thairto.

*Fol. Dic. v. 2. p. 94. Balfour, No 10. p. 398.*

No 6.

1564. *July 14.*

HAMILTONS *against* The SHERIFF-DEPUTE OF PERTHSHIRE.

ANENT the action pursued by John and William Hamiltons, sons to the Lady Stenhouse, and John Anderson burgess of Edinburgh, and Andrew Sands dwelling in the Blair, against the Sheriff-depute of Perth, and the Sheriff-officer of the same, and Peter Cochrane and others, for the spoliation of certain goods from the said pursuers; it was *alleged* by the said Sheriff-officer and the said Peter and the rest of the defenders, That the goods alleged to be spuilzied by them were taken and apprehended by them upon the ground pertaining to the said Lady, for execution of a debt given against her at the instance of the said Peter Cochrane; and so the said Sheriff-depute-officer, and the said Peter Cochrane, and the rest of the said defenders, who were but witnesses of the said officer in execution of his office, and therefore they did no wrong nor spuilzie. It was *alleged*, That the goods spuilzied pertained no way to the said Lady, but allenaryly to the said pursuers, resting as their own proper goods; and the allegiance of the said defenders was direct contrary to the pursuer's libel; and more attour it was *alleged* by the said Anderson and the said Sands, That in the time of the apprehension of the said goods by the said officer, and before the apprising thereof or delivering of them to the party, they came to the said Sheriff-depute-officer; and alleged, that a part of the said goods was their proper goods, being in their possession the time of the taking thereof, and certain space before; and offered them to make faith and proof thereupon, according to the law and practice, desiring the same goods to be delivered to them, the which the said Sheriff-depute-officer refused to do; upon the which the said

No 7.

If the party to whom goods belong, which are about to be poinded as the property of another, appear and claim them, it will be spuilzie if they are poinded; but if he do not appear at the time, it will not be spuilzie; there will only be action simply for restoration.