

No 193. there was no ejection committed, because the said David entered him who was alleged to have been ejected, and put him into the said land and possession by virtue of a decree given by the Bailie of regality of Coldingham, *et sic auctore prætoris*; and he that was entered was entered by virtue of a decree given by the said Bailie of regality, decerning him to have been wronguously ejected, and the other restored to the possession of the ground. It was *alleged*, That the Bailie of regality, and his depute, likeas no Bailie of any court, albeit he be a judge ordinary, had no power to sit upon ejections, which was admitted by the whole Lords.

Fol. Dic. v. 1. p. 501. Colvil, MS. p. 410.

1611. February 28. MURRAY against HOWIESON.

No 194.

IN an action of advocation produced by John Murray *contra* Janet Howieson, the LORDS found, that the Commissaries might not be judges to the improbation of the executions of their own precepts *post sententiam*.

Fol. Dic. v. 1. p. 501. Kerse, MS. fol. 175.

1622. March 12. MARSHAL against BLAIR.

No 195.

Inferior judges may proceed in contraventions of small importance, especially where they depend upon acts of law-borrows found in their own courts, and where the pain is small.

IN an action betwixt Marshal and Blair, where Blair being acted in the Bailie-court books of Canongate, for keeping of the King's peace, under pain of 40 pounds; whereupon action of contravention being pursued before the Bailies of the Canongate, for contravening of the act; this action being desired to be advocated, upon this reason, that no inferior judge ought to cognosce in contraventions, and that such actions were not proper to their judicatory; but that the Lords of Session were only competent judges to all such causes;— THE LORDS remitted the matter to the Bailies of the Canongate, and found, that inferior judges might proceed in contraventions of such small importance, especially where the same depends upon acts of law-borrows found in their own courts, and where the pain is so little.

Act. *M^cGill.*

Alt. *Oliphant.*

Clerk, *Scot.*

Fol. Dic. v. 1. p. 501. Durie, p. 21.

* * * Haddington reports this case :

BLAIR having found caution of law-borrows to Marshal, before the Bailie of the Canongate, under the pain of L. 40, was pursued by the said Marshal, for contravention before the said Bailies. The cause was sought to be advocated; because it was *alleged*, that no inferior judge may cognosce upon contraven-