

No 7. complainers has intercommuned with Mr James one of the rebels, and so had occasion to have apprehended him, they being charged to that effect:—*Probationi* the allegiance. See No 2. p. 11687.

*Nicolson, MS. No 280. p. 193.*

No 8. 1622. *January 16.* L. DRUMLANRIG *against* L. CASHOGIL.

IN a declarator of escheat pursued by the L. Drumlanrig against Cashogil, proceeding upon an horning executed against him, for not obeying of charges given to him as Bailie of Morton, to take some rebels; the LORDS found, conform to the old practick, that that horning, and all hornings of that nature, could not be sustained, except there had been a preceding charge executed against the defender upon another horning, whereby the Bailie was charged to take the rebels, by the disobedience whereof, the letters of horning, whereupon he was denounced, ought to be directed; and therefore ordained the prior letters and charges to be produced, without production whereof, the LORDS found the horning null.

Act. Hope.

Alt. King.

Clerk, Scot.

*Fol. Dic. v. 2. p. 167. Durie, p. 9.*

1622. *March 6.* FRANK *against* BAILIES OF PEEBLES.

No 9. IN an action against Bailies of a burgh for letting furth a ward, the LORDS sustained action against a Bailie for payment of the debt, albeit the party was demitted after he was out of office, except the Bailie would allege, that he intimated the charge given to him to the entrant Bailies.

*Fol. Dic. v. 2. p. 167. Kerse, MS fol. 227.*

No 10.

Found in conformity to Vauss against Calder, No 5. p. 11688.

1622. *March 16.* SCOT *against* One of the BAILIES of MONTROSE.

SCOT pursued one of the Bailies of Montrose to pay to him a sum, for which he had denounced Thomas Forbes, because the Bailie being charged to take the rebel, had not obeyed. He *alleged*, That the rebel had parted out of the country before the second charge, and was yet absent. The allegiance was repelled, because the pursuer offered him to prove, that the rebel had been in company with the Bailie in Montrose diverse times after the first charge given.

*Fol. Dic. v. 2. p. 167. Haddington, MS. No 2616.*