No 13. the arbiter's having exceeded his power in this inſtance, affords no objection to the other parts of the decree-arbitral.'

Lord Ordinary, *Juſtice Clerk Braxfield.* Act. *Geo. Fergusson.*
Alt. *H. Erskine.* Clerk. *Home.*

Davidson. *Fac. Col. No* 82. *p.* 189.

Arbiters may be compelled to determine.

No 14.
A party ſubmitter, petitioned the Lords to compel an arbiter who had accepted, to meet and determine. There happened to be no clauſe of regiſtration; The Lords declared, if there had, the arbiter might have been charged with horning, but they would not ſupply the defect.

1699. *June* 30. CHEISLY *againſt* CALDERWOOD.

SIR ROBERT CHEISLY, late provoſt of Edinburgh, gave in a petition againſt Mr William Calderwood, advocate, complaining, That though the ſaid Mr William had accepted to be his arbiter, in a ſubmiſſion betwixt him and Cheiſly of Dalry, his nephew, he refuſed to meet, though the term prefixed was near expired; therefore craved the Lords might ordain him to meet and determine, conform to the title of the common law, *de receptis qui arbitrium in se receperunt ut sententiam dicant.*—*Answered* by Sheriff Calderwood, That the Provoſt's claim did not appear ſo clear and legal, and for that and other reaſons he reſolved to let the ſubmiſſion fall.——THE LORDS conſidered, if there had been a clauſe of regiſtration he might have been charged with horning to meet and determine; but this being omitted, the LORDS refuſed to interpoſe in this caſe, or ſupply their defect.

Fol. Dic. v. 1. *p.* 49. *Fount. v.* 2. *p.* 55.

1704. *February* 8.

WALTER CAIRNCROSS of Hillſlop *againſt* JAMES HUNTER.

No 15.
Found, that an arbiter cannot renounce a ſubmiſſion accepted of, ſince he can be charged with horning determine.

HILLSLOP having obtained a decreet againſt Hunter his tenant, for ſome rents; he ſuſpends, and when the ſuſpenſion comes to be diſcuſſed by the courſe of the roll, Hunter *alleges*, You cannot inſiſt, becauſe the affair ſtands ſubmitted.—*Answered*, One of the arbiters, by a writ under his hand, has declared he will not meddle in the concern any more, ſo it is deſerted and expired.—*Replied*, Having no definite time filled up therein, it laſts year and day from its date; and the renouncing of his arbiter, at his interpoſition and deſire, cannot make it expire; 1*mo*, Becauſe he can be charged with horning, to meet and give out his decreet. 2*do*, The other arbiter, with the concourſe of the overſman, may determine without him.—*Duplied*, The other party's deſign is not that the affair ſhould come to any ſentence or determination, but to poſtpone Hillſlop in diligence, while the tenant is *vergens ad inopiam*, and putting all his goods and ſtocking away; ſo that before the year expire, there will be nothing left to affect. ——THE LORDS found the ſubmiſſion was yet ſtanding, notwithſtanding one of