

No 63. THE LORDS found Mr Francis Robertson conjunctly and severally liable with the Lady Gees.

C. Home, No 43. p. 76.

1760. March 3.

HARDIE against BLACK.

No 64.

THE tenant of a room of an upper floor having erected a comb-pot for dressing wool, without taking the proper precautions generally used in such manufactures to prevent fire, by which means the house was burnt down, was found liable in damages to the proprietor.

Fol. Dic. v. 4. p. 220.

* * This case is No 69. p. 10133, *voce* PERICULUM.

SECT. XI.

Whether one is liable for the malversation of those under his authority?—Complaint raised in name of another without his authority.

1590. November. LAIRD OF LUDQUAIRN against EARL MARISCHAL.

No 65.

▲ man found liable for the violent act committed by his wife in his absence.

THE Laird of Ludquhairn pursued the Earl Marischal and his Lady for the demolishing and down-casting of a mill and dam thereof. *Excepted* by my Lord, That he could not be convened for any deed done by his Lady, because, in the mean time, he was forth of the country, and knew not what was done by her. Likeas, by the law, *ne maritus pro uxore, aut uxor pro marito, &c.* it is plain. *Replied*, That my Lady, in his absence, was *præposita negotiis*, and had my Lord's household servants at the down-casting thereof. THE LORDS found, That my Lord might be convened notwithstanding of his absence at the time. Next, it was *alleged*, That there was no wrong in the down-casting thereof, because my Lord having all the Lordship of Innerrugy pertaining to him in heritage, together with the mills and multures thereof, with the thirlage of the same lands to the mills of Innerrugy, *licuit ei uti suo jure*, and stop any other mill to be bigged. *Replied*, That the pursuer's mill had gone for the space of fifteen days, without any stop or impediment; so that the defender could not have stopped her but by order of law, *quia non potest sua*