

No 64. that no action lies upon the said missive; assoilzies the defender, and decerns; and finds expences due."

Lord Ordinary, *Kames*.

For Thomson, *James Grant*.

Clerk, *Kirkpatrick*.

For Mackaile, *Geo. Fergusson*.

R. H.

Fol. Dic. v. 4. p. 27. Fac. Col. No 21. p. 51.

1774. July 14.

WILLIAM MAXWELL of Dalswinton *against* ALEXANDER BLAIR of Dunrod, and the TRUSTEES appointed by the deceased HUGH BLAIR of Dunrod, Father to the said ALEXANDER.

No 65.

In a question relative to the validity of a bill, granted as the amount of a wager lost upon a horse-race, the Lords found, that the 14th act, Parliament 1621, relative to game debts, was not in desuetude.

THE statute 14th, Parliament 1621, *inter alia*, enacts, That, wherever any person wins above 100 merks, within 24 hours, upon cards, dice, or horse-racing, the surplus shall, within 24 hours thereafter, be consigned in the hands of the Kirk-Treasurer, if in Edinburgh, or of the Kirk-Session in the country, to be applied for the use of the poor.

In a question between these parties, relative to the payment of a bill that was granted to the pursuer, by the deceased Hugh Blair, in consequence of his having lost a bett of L. 200 Sterling upon this feat of horsemanship, which of them should ride in the shortest time from Dumfries to Kirkcudbright?—the pursuer having *contended*, That betts of this kind were not illegal, the point deliberated upon by the Court was, Whether or not the act 1621 was in desuetude? And, for showing that it was not, reference was made to the decision in the case of Sir Scipio Hill, 9th February 1711, *voce* POOR.

The Court "found, that the 14th act, Parliament 1621, is not in desuetude; and ordain the Clerk of this process to intimate to the Kirk-Sessions of Dumfries, Kirkcudbright, and Kelton, that they may appear for their interest in this cause; and, this intimation being made, remit to the Lord Ordinary to proceed in the cause, and to do therein as he shall see just."

Act. *Crosbie*.

Alt. *Wight*.

Clerk, *Kirkpatrick*.

Fol. Dic. v. 4. p. 34. Fac. Col. No 126. p. 338.

** See the competition between the Kirk Sessions, decided 15th June 1775, in favour of the poor of the parish of Dumfries, *voce* POOR.

No 66.

1776. December 3.

HOPE *against* TWEEDIE.

THE LORDS sustained action for a wager of a pipe of Port wine between two Gentlemen, to be paid to him who should walk first to Edinburgh from a cer-