No 70.

1791. *June* 16. BROWN *against* LAURIE.

WHERE the seller acknowledged the horse to be very old, and on that account sold him for a low price, &c.; yet the horse being found very useless, the seller was found liable in repetition of the price upon the implied warrandice. See APPENDIX.

Fol. Dic. v. 4. *p.* 255.

No 71.

1791. *June* 29. DURIE *against* OSWALD.

WHERE the seller upheld a horse to be sound, except a burn on his leg, which he averred was of no consequence, the horse being immediately discovered to be lame, the seller was found liable in repetition of the price upon the implied warrandice. See APPENDIX.

Fol. Dic. v. 4. *p.* 255.

No 72.

1791. *July* 9. BROWN *against* GILBERT.

THE seller was found liable in repetition of the price of an unsound horse which had been sold at a public auction to the highest bidder, though it was argued, that in such case, where the seller runs the hazard of the price that may be offered, and must take it whether it be equal or not, the buyer ought to take the commodity *talis qualis* as he finds it. But in this case, the seller had previously advertised, that the owner was parting with his horse for no fault, but merely because he had no occasion for him, as he was leaving the country. See APPENDIX.

Fol. Dic. v. 4. *p.* 255.

No 73.

A person found liable in damages for selling annual rye-grass seed, without explaining its nature to the purchaser.

1799. *May* 14. DUNCAN ADAMSON *against* CHRISTIAN SMITH.

DUNCAN ADAMSON purchased 50 bolls of rye-grass seed from William Neish. The seed turned out to be of that species which is called annual, from its giving only one crop.

On discovering this, Adamson brought an action of damages before the Sheriff of Forfar, stating, that when the bargain was made, Neish had said that "it was not annual seed, and that it was as good seed as any in the country, on the faith of which alone the pursuer bought it."