

No 67.

* * * This case was appealed.—The HOUSE of LORDS, 14th April 1788, “OR-
 “DERED and ADJUDGED, that the appeal be dismissed, and the interlocutors
 “complained of be affirmed.”

No 68.

1796. July 7.

FRASER *against* SPROTT.

FRASER, a jeweller and hardware merchant, having advertised a scheme of a lottery, for disposing of his goods, the Procurator-fiscal of the City of Edinburgh applied to the Magistrates for an interdict against him, upon the ground of such lotteries being declared nuisances by law, particularly by 27th George III. cap. 1. § 2. Urged in defence, That the remedy prescribed by the statute was confined to the Courts of Westminster Hall, and that we have no common law against making sales in this manner. The Magistrates granted the interdict. On a bill of advocation being reported to the Court, the LORDS remitted to the Ordinary to pass the bill, to the effect of trying the question; and, in the mean time, continued the interdict.—See APPENDIX.

Fol. Dic. v. 4. p. 34.

1799. May 15.

SAMUEL WORDSWORTH *against* JOHN PETTIGREW.

No 69.
 Wagers are
 not action-
 able.

SAMUEL WORDSWORTH obtained decree in absence against John Pettigrew for L. 5 Sterling, as the amount of a wager, that a particular mare would trot 17 miles within an hour.

In a suspension, Pettigrew, besides denying that he had taken the bet, contended that action does not lie for claims of this sort.

The Court, upon a verbal report by Lord Probationer Bannatyne, were unanimously of this opinion. This was not founded on the statutes against gaming, but on common law. Courts of Justice (it was observed) were instituted to enforce the rights of parties arising from serious transactions, and can pay no regard *sponsionibus ludicris*; as to money gained or lost, on which *melior est conditio possidentis*; 26th January 1787, Bruce against Ross, No 67. p. 9523. affirmed on appeal.

The letters were suspended *simpliciter*.

D. D.

Fac. Col. No 123. p. 28E.