

the troubling and molestation. *Hoc in fructibus artificialibus, non itaque in naturalibus.*

No 2.

*Fol. Dic. v. 1. p. 252. Colvil, MS. p. 245.*

1581. May.

ANDERSON against KINNEIR.

THERE WAS a woman callit Kinneir, that was persewit for ejection and spoliation be ane Anderson, for ejecting of him furth of a mill and mill lands of William Anderson. The libel being admittit to probation, and being fund proven against certain other persons, the question fell out, the woman, the time of the ejection, being in Edinburgh, and remained there twenty days thereafter, and then coming to the house, and remained with her sons, who were the ejectors, and having intromitted with certain geese, and ane gray mare, whilk were ganging in the field *tanquam derelicta*, and her intromission with the same was proven onlie be ane witness, if she sould be decernit as ejector.—THE LORDS, after long reasoning, decernit her to have ejectit and committit spulzie; for it was *allegit* be some of the LORDS, that notwithstanding she was absent at the deed doing, yet be coming there, and remaining with her sons, albeit it was *ex longo intervallo et temporis tractatu*, she ratifiet and approvit all the deed as if it had been done at her command and assistance, *et sic ratihabitio retro trahitur, et mandato equiparat., et maxime quando alicujus nomine quidpiam gestum est, de quo vide reg. Juris in sexto; tamen bona pars dominorum in contraria fuerant opinione.*

Into the same action and cause, the matter being fund proven, the quantitie was referrit to the aith of the persewar; and being sworn, gave in ane quantitie that was sworn, almost agreeing to the libel. THE LORDS, nevertheless, after long reasoning among themselves, votit, for the most part, that they wald modify the quantity and prices, albeit the party had sworn, and were of that mind, that the common law sould be followed, *quod præmiss. taxatione judicis, prout in cap. super., extra de his qui vi; et maxime apparebat dominis*, that all things contained in the libel was rigorously socht, and that there was appearance of perjury, *et nonnulli dominorum in contraria fuerant opinione*; yet aither the parties aith sould be followit furth and tane, as was the form of the ancient practic, or else the LORDS, *in rebus ejusmodi ordinis et magni momenti*, should receive the modification to their ain selves, as they commonlie usit to do before the oath.

*Fol. Dic. v. 1. p. 252. Colvil, MS. p. 300.*

1583. May.

FRASER against ———.

THERE WAS a woman callit Fraser, that persewit certain persons for the ejection of her furth of certain lands, and the spoliation of certain corns. She

No 3.

A party, tho' not present at the deed of ejection and spoliation, and a long time thereafter absent, was nevertheless found guilty of the deed by ratification of it, which ratification was inferred by her coming to the house whence the pursuer was ejected, and living there with her sons, who had committed the ejection.

No 4.

Process of ejection was sustained at the instance of a tacks.