

No 68. 1611. *July.* VANS *against* BALNAGOWNE.

IN a contravention committed by mens' tenants, the pain will not be decerned against their master, unless either his command or rathibition be qualified, or great violence proved.

Fol. Dic. v. 2. p. 342. Haddington, MS. No 2269.

* * * Kerse reports this case :

IN an action of contravention pursued by Alexander Vans *contra* the Laird of Balnagowne, the LORDS sustained the summons upon a deed committed by the Laird's tenants, and would not astrict the pursuer to prove, that the same was done of the Laird's causing, command, &c.

Kerse, MS. fol. 232.

No 69. 1617. *January 12.* GALBRAITH *against* ANDERSON.

IN an action betwixt John Galbraith and William Anderson, the LORDS found, That the deed of the servant could not oblige the master, except he were feed servant from term to term.

Fol. Dic. v. 2. p. 343. Kerse, MS. fol. 232.

1623. *March 28.* MURISLAW *against* HALYBURTON.

No 70.
Contraven-
tion sustained
against a ma-
ster upon
a deed of his
household
servants,
though it was
not prov-
ed, that the
servants had
authority
from his ma-
ster.

IN a contravention pursued by Murislaw against Halyburton of Pendicle and John Trew of Lamington, the LORDS found, That the deed of two of John Trew's domestic servants in taking away all the clipped wool, being in the pursuer's tenant's houses, was a sufficient cause to decern the said John Trew in the pain of the contravention ; for seeing, that if it were otherways decerned, powerful men might secretly direct their household servants to oppress their neighbours who had charged them with law-burrows, and eschew the pain, because the pursuer could not prove the secret command given by the master to his servant.

Fol. Dic. v. 2. p. 343. Haddington, MS. No 2846.

1628. *February 2.* SCOT *against* BANKS.

No 71. A WOMAN while her husband was out of the country, having, in his name, unlawfully and violently intromitted with goods belonging to a third party,