

1611. *January 25.* DREW *against* HORNE.

No 3.

A MAN being hurt and wounded, taking satisfaction from them that hurt him, and granting, that it proceeded of his own default, and therefore granting him fully assythed and satisfied by them;—if, thereafter, he die of these wounds, and his slayers take remission, and being called to underly the law, take him to his remission, and find caution to assyth the party, as accords of the law;—the confession of the defunct will not assolzie him; and his assythment will not relieve him at the hands of the defunct's nearest friend, *quia hoc ipso*, that he has taken and used the remission, he acknowledges his guiltiness, and therefore must assyth the defunct's nearest kinsmen.

*Fol. Dic. v. 2. p. 341. Haddington, MS. No 2122.*

1767. *February 24.* MACHARGS *against* CAMPBELL.

No 4.

A PERSON was found liable in an assythment, upon the sentence of a court-martial, which had declared him guilty of a murder, but had only ordered him to be cashiered, as there was not such a majority as is required by law to authorise a court-martial to pronounce a sentence of death.

*Fol. Dic. v. 4. p. 226. Fac. Col. Sel. Dec.*

\*.\* This case is No 429. p. 12541. *voce* PROOF.

1768. *January 8.*

LADY-LEITH-HALL, and her CHILDREN, *against* EARL FIFE, Donatar of Escheat.

No 5.  
Nature of an  
assythment.

JOHN LEITH of Leithhall was murdered on the street of Aberdeen, 22d December 1763, by James Abernethy of Mayen, who having made his escape, a criminal prosecution was brought against him. He having failed to appear was declared a fugitive and outlaw. A gift of his escheat was procured for behoof of his wife and children; but with this proviso, that it shall be without prejudice to a claim of assythment by the wife and children of the deceased, if such claim be competent in law. An action was accordingly brought upon this claim, which was much controverted in the Court; and the doubtfulness arose from mixing the two senses of the word assythment, which occasioned much reasoning that was not applicable to the real case.

When the punishment of murder, or of any other crime, is inflicted, full satisfaction is understood to be given both to the public and to the private party concerned, after which no vergelt, or composition for slaughter, is due to the relations of the person slaughtered, such as would be due if the criminal were