

No 15.
of lawburrows, and found caution. Afterwards contravening, he was decerned to pay that penalty, and actually paid it. Having suspended, and craved modification in time coming, this was allowed him.

same being proved against him, he paid the said sum of 5000 merks ; and finding himself greatly prejudged, he sought thereafter a suspension of the said charge of lawburrows, for modification of the exorbitant pain therein contained. Which matter being reasoned, some of the LORDS alleged, That, seeing he had given obedience by finding caution absolutely, without any suspension in the beginning, and that since syne he had committed a violent contravention, which was proved against him, there was no reason to modify the same.—It was *answered*, That the pain was immoderate, an evil direct from the beginning ; and albeit he had obeyed by finding of caution, that took not from him liberty to seek it to be thereafter modified by suspension ; and if he had committed any contravention *medio tempore*, he had paid dear for it ; but seeing he sought modification only for times to come, it could not of reason to be refused, having respect to the quality of the persons ; in respect whereof the LORDS modified the pain to 1000 merks in time coming.

Fol. Dic. v. 1. p. 533. Haddington, MS. No 1673.

No 16.

1609. December 21. BRUCE *against* LAIRD of CLACKMANAN.

IN a contravention pursued by Bruce of Greenyards against Clackmanan, the libel was found relevant, because that Clackmanan struck the pursuer with his neif upon the breast, and drew his whinger and struck at him therewith, albeit there was no hurt done.

1610. January 13.—IN a contravention pursued by Bruce of Greenyards against Clackmanan, for two invasions of him for his slaughter, one in 1604 by Clackmanan's self, and another in 1609 by Clackmanan's servant Donaldson ; it being *urged* for Clackmanan, That ane only pain of lawburrows should be granted, the LORDS repelled the allegiance, in respect of the long distance of time betwixt the two facts, and that they were both personal invasions.

Fol. Dic. v. 1. p. 534. Haddington, MS. Nos. 1709. & 1734.

1612. July 14.

LORD THIRLESTANE *against* PATRICK HEPBURN of Newmills.

No 17.

HE who charges a man with lawburrows for fear of his oppression in his goods, lands, and possessions, not making faith before the charge, may supply it, making faith when the matter is brought in question by suspension.

Fol. Dic. v. 1. p. 332. Haddington, MS. No 2478.