

cairn, as superior, the LORDS found this allegiance relevant, that one of the daughters was not a year before the decease of her brother, whose marriage was disposed *per expressum*.

No 16.

*Kerse, MS. fol. 114.*

1616. July 26. DRUMMOND *against* LO. MANNER.

IN an action at the instance of Mr William Drummond and Lo. Manner, the LORDS found, that a procuratory was not necessary to be shown, where the parties who had received it had power, but that the instrument of requisition alleging him to be procurator was sufficient.

In the same cause, they found, that the offer made by Manner now instantly at the reasoning of the cause, was not relevant, in respect that there was once a party offered.

*Fol. Dic. v. 1. p. 568. Kerse, MS. fol. 114.*

No 17.  
Found in conformity with Tullibardine against Drummond, No 7. p. 8519.

1616. July 27. E. ANGUS *against* NISBET.

IN an action betwixt E. Angus and Hugh Nisbet of Bagly for the double avail of the marriage, the LORDS found no process for the double, because the Earl appeared not at the day and accept the gentlewoman, notwithstanding that Bagly, at the time of the assignation of the diet, did not answer that he would come.

No 18.

*Fol. Dic. v. 1. p. 567. Kerse MS. fol. 114.*

1618. January 13. HOME *against* HEIRS of Thornydikes.

IN an action of marriage pursued by Home of North Berwick *contra* the Heirs of Thornydikes, the LORDS found, the avail of the marriage of Adam French of Thornydikes, who deceased, married of fifteen years of age before the apprising of the ward, to be real, and so follow the ground.

No 19.

*Kerse, MS. fol. 114.*

1618. January 24. A. *against* B.

IN an action of marriage, the LORDS repelled this exception, that the party was yet content to marry, both anent the single and double avail; but the LORDS found, that he could not pay the double while he was married.

No 20.

*Fol. Dic. v. 1. p. 568. Kerse MS. fol. 114.*