

proved to have had other clothes, if she had not been furnished with these. — The Lords found the wife liable, if she was major; but found the father not liable, seeing he prohibited it; but found the husband liable however *de in rem verso*. See RECOMPENCE.

*Fol. Dic. v. 1. p. 393. Stair, v. 2. p. 98.*

No 94.

1675. June 23. WIDOW AUCCINLECK against EARL OF MONTEITH.

In a pursuit at the widow's instance against the Earl for payment of a hundred and seventy seven pounds, as the price of a parcel of stuff and furniture, sold to his Lady for her abulziements, it was *alleged* for the Earl, that before that furniture was gotten off, he had served inhibition against the Lady, which was registered and made public, after which she was not capable to contract debt. It was *replied*, that the sum craved being for merchandise and necessary abulziements, the Lady being in want, the inhibition could not affect the same, nor put the pursuer in *mala fide*, especially being for so small a sum. The Lords did ordain the pursuer to give her oath, if the inhibition was particularly intimated to her, which she denied; and thereafter, having advised this as a common cause, did find, that the Earl was not liable, he proving, that he furnished the Lady sufficiently with clothes and other abulziements.

*Fol. Dic. v. 1. p. 393. Gosford, MS. No 760. p. 471.*

No 95.

The husband is liable for goods taken off by his wife, even after inhibition, unless he can prove, that she was otherwise provided for.

1676. July 19. SANDS against EDMISTON.

ELIZABETH SANDS having pursued her husband, who deserted her and went abroad, for adherence, upon the act of Parliament, and the bishop having refused to excommunicate him for non-adherence, that by virtue of that act she might have divorce; she did therefore apply to the Council for an alimment, and got it locally out of certain tenements of her husband's, and now pursues for mails and duties. It was *alleged* for Mr Robert Edmiston, That he had adjudged the tenements in question, and was thereupon infest, and the act of Council could but import an assignation to the mails and duties, which ceased by an infestment, though posterior, which the Lords found relevant.

*Stair, v. 2. p. 455.*

No 96.

1676. July 25. CAMPBELL against The LAIRD of EBDEN.

LILLIAS CAMPBELL pursues the Laird of Ebden for payment of an account of ware taken off by his Lady, acknowledged by her ticket under her hand, sub-

No 97.

Found in conformity with No 95. *supra*.