

No 43.

'THE LORDS found, That the arrestment on the Sheriff's warrant founded a jurisdiction to the Court of Session ; and remitted to the Lord Ordinary to proceed accordingly.'

Act. P. Murray.

Alt. H. Dalrymple.

W. J.

Fol. Dic. v. 3. p. 240. Fac. Col. No 155. p. 276.

## S E C T. III.

## Burgh Law.

No 44.

A person who was arrested in a royal burgh, for goods bought therein, found caution to answer as law will. This found to subject him to the jurisdiction of the burgh in this cause, though he lived in another jurisdiction.

1633. January 31.

STEVENSON *against* LAW.

JOHN STEVENSON in St Andrew's having sold to Alexander Law in Dunfermling certain lint, the said John Stevenson finding thereafter the said Alexander Law in St Andrew's, by the privilege of burgh, charges him to enter it ward by the town-officer, whereupon he finds caution to answer as law will; and he and the said cautioner being thereafter convened before the Magistrates of the burgh, for payment of the prices of the lint, he raises advocacy, upon this reason, That the Bailies of St Andrew's could not be judges to him, who was actual residenter in Dunfermling, and his finding caution to answer as law will, which was done to eschew the danger of warding, cannot make them competent judges to him.—THE LORDS found this no reason whereupon the action should be advocated to the Lords ; but found the Magistrates of St Andrew's competent judges, albeit the party dwelt not within their judicatory, in respect of the said caution, found to answer as law will, by the which finding of caution, he became subject in that to the jurisdiction of that burgh; specially seeing the matter, for which the caution was found, and for which he was convened, was for wares bought and bargained for within that burgh, and so *ratione rei* he was the more subject to that judgment. And the LORDS found, That the finding the like caution ought to produce this effect, and that it tended not to that end, to make the party who found the caution, liable to answer in his own proper jurisdiction.

Fol. Dic. v. 1. p. 329. Durie, p. 666.