

## NAUTÆ, CAUPONES, STABULARII.

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1661. December 4.

WHITE against CROCKET.

No 1.

**T**HOMAS WHITE pursues Patrick Crocket in Elliot, to make payment of the sum of 600 merks, which the pursuer alleged he had in a leathern girdle when he lodged with Crocket, being in an inn-keeper's house, and that the defender promised that the pursuer should want nothing, after the pursuer had shown him the said girdle; yet the defender came ordinarily in the chamber, where the pursuer lay that night, and he wanted his money from under his head, which he declared, and shewed to the defender the next morning; and therefore, according to the law, *nautæ caupones stabularii, &c.* (which is observed in our custom) the defender, as keeper, ought to be decerned to restore. The question was here only of the manner of probation.

THE LORDS found all the libel relevant to be proved, *prout de jure*, and declared, that these being proved, they would take the pursuer's oath *in litem*, upon the quantity.

*Fol. Dic. v. 2. p. 1. Stair, v. 1. p. 63.*

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1687. February 17.

THE MASTER of FORBES against STEIL.

No 2.

THE Master of Forbes's pursuit against Patrick Steil, vintner in Edinburgh, is reported by Saline, how far he was liable for the Master's cloak stolen in his house, on the edict *nautæ, caupones, stabularii*; seeing Patrick alleged from the words of the edict *salvas fore receperint*, there behoved to be a tradition or delivery of the thing to their custody; and that the *caupona* amongst the Romans were, where travellers came to lodge with their cloak-bags, of which kind Patrick Steil's house was not; and that his doors being open, and near to the high streets, he could not be answerable for all comers and goers. Yet the LORDS