

tuity, to be paid by the party whose proof it is. It is observed in the same case, that the Court had decided, that arbiters were not *de jure* entitled to any recompense.

No 41.

Fol. Dit. v. 4. Kilkerran. D. Falconner.

* * * This case is No. 1. p. 5729. *voce* HONORARY.

1761. November 17.

JOHN, &c. MACEVERS *against* HUGH ROSS of Kilravock, Esq; Advocate, Sheriff-depute of the Sheriffdom of Ross.

IN the year 1754, Mr Rose, by his commission, constituted Roderick Macever to be his substitute in the Island of Lewis, which makes a part of the shire of Ross. No mention was made of any salary in this commission. Macever acted above two years and half as Sheriff-substitute, and then died.

No 42.
Salary due to a Sheriff-substitute, tho' not stipulated.

The pursuers, as executors to him, brought an action against Mr Rose for a salary, at the rate of L. 25 a-year, for the time their father had acted as Sheriff-substitute.

Pleaded for the defender : No salary stipulated ; *ergo* none due.

Answered for the pursuers, That there is no evidence that their father accepted of the office without a salary : That the office was exceedingly troublesome ; and the presumption was, that no man would accept of a troublesome office without some recompense.

Observed from the Bench : That it was *contra bonos mores* to employ a substitute without a salary, and might be attended with very bad consequences.

THE LORDS found the salary due.

Act. Munro.

Alt. Scrymgeour.

Reporter Lord Woodhall.

Fol. Dic. v. 4. p. 218. Fac. Col. No 6. p. 145.

1766. January 16.

JOHN BULLMAN, Attorney, *against* ALEXANDER EARL of GALLOWAY.

JOHN BULLMAN, as administrator of the late James Aitkenson, attorney in Morpeth, brought an action against the Earl of Galloway and his son Lord Garlies, setting forth, That Lord Garlies having, in spring 1760, offered himself as a candidate to represent the borough of Morpeth in Parliament, he and his father had employed the late Mr Aitkenson, attorney there, to manage the election, as was vouched by many letters from them to him, which he accordingly did, with great zeal and ability, and the wished success ; and, therefore, concluding for

No 43.
Attorney acting as a political agent, not entitled to a recompense for his trouble, without a previous bargain.