

## D I V I S I O N I V .

*Forum competens ratione rei sitæ et contractus.*

1581. February 28. LAWSON against The MAGISTRATES of Edinburgh.

THE Laird of Heiriggs callit Lawson, having obtained ane decret before the Sheriff of Lothian, against the Provost, Bailies, and Town of Edinburgh, for the wrongous troubling him in the possession of the lands and heritages, desyrnt letters conform to the said decret. It was *objectit* be the Provost and Bailies, That he aught to have no letters conform, because ' fuit decretum non a suo judice latum et nullam merebatur executionem ;' because the Sheriff of Lothian could not be Judge competent to the Provost and Bailies of the town of Edinburgh ; but if any wrang had been done be them, they should have been convened before their ain Judge-ordinar, ' quia actor tenetur sequi forum rei.' To this was *answerit*, That the decret standing, they could not make this allegiance, ' et de jure licet actor tenetur sequi forum rei, tamen ratione rei de qua agebatur, sortitur quis forum alibi, prout C. extra. de foro competenti ;' and so the lands lying within the sheriffdom of Lothian, the said Sheriffs and their deputes were Judges competent to the giving of the said decret ; and this declinator also aught to have been alleged before the giving of the said decret. THE LORDS repellit the allegiance, and decernit letters conform to the said decret.

*Fol. Dic. v. 1. p. 327. Colvil, MS. p. 319.*

1623. February 5. ———— against KENNEDY.

IN a reduction of a decret, persewed be the Commissar of Glasgow, against one Kennedy, as intromitter with the goods of one ————, who dwelt and died in the diocese of Glasgow, the LORDS fand the decret null, as given *a non suo judice* ; because, suppose the executor might have been pursued before the Commissar of Glasgow, yet, since the pursuit was against an intromitter dwelling within the diocese of Galloway, *actor debebat sequi forum rei*, and have pursued before the Commissar of Wigton.

*Fol. Dic. v. 1. p. 327. Haddington, MS. No 2747.*

No  
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be exempt  
from the Sher-  
riff's jurisdic-  
tion, the Ma-  
gistrates may  
be pursued  
before the  
Sheriff, when  
the subject in  
dispute is  
within his ju-  
isdiction.

No 21.  
A decree gi-  
ven by a com-  
missary, a-  
gainst an in-  
tromitter with  
the goods of a  
person who  
died within  
his jurisdic-  
tion was re-  
duced, be-  
cause the in-