

party that had found caution had committed contravention, it will be no exception to allege the familiarity since the finding caution. No 24.

*Fol. Dic. v. 1. p. 534. Auchinleck, MS. p. 31.*

1628. December 16. ——— against FEUERS of Glasgow.

No 25.

AFTER the contravention be committed, the pain of lawburrows cannot be modified by suspension, but for times to come.

*Auchinleck, MS. p. 31.*

1629. January 23. A. against B.

No 26.

SOMETIMES injurious words, and spitting in the face, are found a contravention, although no harm and hurt be qualified; but the LORDS found the libel relevant, and declared they would have consideration of the probation.

*Fol. Dic. v. 1. p. 534. Auchinleck, MS. p. 31.*

1629. February 3. ANDERSON against BLACKWOOD.

No 27.

IN an action of contravention pursued by George Anderson against Thomas Blackwood, the pursuer libelled, that he having a going coal in Patrick, and the defender having a wasted coal-heugh upon the croft and rising of the pursuer's coal, out of which the pursuer had drawn all the waste water which could hurt his coal, the defender, out of malice that the pursuer should have a coal going, his own being wasted, let in the water of Kelvin in his own wasted heugh, which presently drowned the pursuer's going coal, to the pursuer's great loss, and prejudice of the country. THE LORDS would not sustain this libel to infer a contravention, but ordained him to pursue for damage and interest, if he had any; for they thought there was no violent deed libelled; and it might have been likewise that his coal was wasted as well as the defenders, so that he could not sustain great prejudice by the defender's deed; in which case, it had been hard to have condemned him in 1000 merks for the pain of contravention.

*Fol. Dic. v. 1. p. 534. Spottiswood, (CONTRAVENTION), p. 74.*

It was found no contravention to let in water upon a coal-pit. The party might prosecute for damages.