

No 1. the same shall be pursued by the charger against the suspenders; and notwithstanding also of the first reason, except for the mending of the manse by the defunct in his own time, the expences whereof shall not exceed 400 merks, if there be an act, which the charger alleges, to be anent the refunding of the expenses by an intrant restraining the same to that sum, which the charger promised to produce, and therefore admit that part of the first reason, anent the defunct's expenses debursed in his own time, upon mending of the manse by himself, to the suspender's probation, and assignees a day to prove.

Clerk, Hay.

Fol. Dic. v. 2. p. 316. Nicolson, MS. No 65. p. 43.

No 2.

1664. February.

HODGE against BROWN.

A TACKSMAN of a house has no claim for what he builds or repairs, unless the same be conditioned in the tack.

Fol. Dic. v. 2. p. 316. Gilmour.

* * This case is No 118. p. 2651, voce COMPENSATION.

No 3.

1667. June 12.

LUMSDEN against SUMMERS.

A PARTY having furnished corn and straw to a rebel for entertaining of his cattle, was found to have no claim against the donatar of escheat, though the only person who was benefited thereby, in regard the furnisher followed the faith of the rebel only, without any view to benefit the donatar.

Fol. Dic. v. 2. p. 316. Dirleton.

* * This case is No 44. p. 8359, voce LITIGIOUS.

No 4.

A tacksmen after being dispossessed by letters of ejection, continued to sow the ground. The crop found to belong to the proprietor, he paying expense of seed and labour,

1671. February 22. GORDON against Sir ALEXANDER M'CULLOCH:

WILLIAM GORDON pursues Sir Alexander M'Culloch for spuilzieing of certain corns; who *alleged*, Absolvitor, because the defender having right by apprizing to the lands whereon the corn grew, did warn the pursuer, and obtained decreet of removing against him, and thereupon dispossessed him; and finding the crop upon the ground, he might lawfully intromit therewith, *nam sata cedunt solo*, especially where the sower is *in mala fide*; but here he was in violence after a warning, and did continue to sow after decreet of removing; yea, a part was sown after he was dispossessed by letters of ejection. The pursuer