

stance against the inhabitants, wherein they did not prevail. The Lords found the defenders liable to the agent, and that they might seek their relief as accords of the law.

Page 193, No. 680.

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1687. *February.* ENTERKIN *against* SCOT of BONNINGTOUN.

IN a process against Scot of Bonningtoun, at the instance of Enterkin, who, as sheriff-depute, had given infeftment to the defender, conform to a precept of the Chancery upon letters of relief, for the entry and non-entry duties;—Alleged for the defender, These duties are presumed to have been paid, seeing the precept bears a clause *capiendo securitatem*, &c. and no security is produced. Answered for the pursuer, They are presumed to be full resting, unless a discharge be produced; and, *de facto*, the pursuer took the security for them, because he knew they were *debitum fundi*, which is securer than a bond. The Lords inclined to sustain the defence, unless it were convelled by the defender's oath.

Page 209, No. 735.

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1687. *February.* DUCHESS of LAUDERDALE *against* ALEXANDER STEILL.

THE Duchess of Lauderdale having pursued Alexander Steill to remove from the coal-grieve's house,—it was alleged for the defender, That he ought to [be found entitled to] so much, *exceptione doli*, as a barn or stable built by him were, or might be worth to the pursuer. Answered for the pursuer, The stable and barn *inædificata solo alieno cedunt solo*; especially the defender not being tacksmen, but a griever and servant, who might have been turned off at any time, as he now is, upon malversation. Replied, The coal-works required horses to draw the water, and consequently a stable to lodge them in, and a barn to thresh corns for them. Duplied, The defender furnished horses to the coal-works for his own gain, which the tenants of Diddistoun had been in use to do at 10d. *per diem*. And the pursuer is willing that the defender take down his stable and barn, as being of no use to her. The Lords appointed a visitation for trying what the building might be worth to the pursuer, and resolved to modify accordingly.

Page 241, No. 844.

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1687. *February.* POLLOCK MAXWELL, &c. *against* GRAY of CRICHIE.

A SUMMONS of adjudication being raised, at the instance of Hugh Wallace, cash-keeper, against several persons fined by the council, and the execution apart bearing *Hugh Wallace*, the pursuer, and relating to the summons;—it was alleged for the defenders, That, by the late act of Parliament, all summonses not designing the pursuer and defender, are null. Answered for the pursuer, The