

having built *in confinio*, and encroached, the Lords thought, in so dubious a case, he behoved to get not only his meliorations, but all his other expenses. And parties, in their humour of demolishing such buildings, are not to be indulged. And the maxim, *ædificatum cedit solo*, has several exceptions.

*Vol. I. Page 656.*

1695. *January 5.* MACNAB *against* CULDAIRS and MENZIES of that ilk.

IN a concluded cause, Macnab against Culdairs and Menzies of that ilk, though a minor quarrelled a discharge he had given of some years' annualrents of 100 merks, and, by the act, had proven his minority; yet the Lords assoilied, and would not reduce; because they thought one of twenty, as he was then, might uplift his annualrents for his own entertainment, where it did not amount to a great sum, and it did not appear he had another estate to be alimented on: And why may not a minor, wanting curators, lift his rents and discharge his tenants? So minority here is not enough without lesion: and that is not presumed, in such a case, till first it be proven.

*Vol. I. Page 656.*

1695. *January 9.* BOSWELL of AUCHINLECK *against* The TENANTS of MITCHELL of BRAEHEAD.

THE Lords found, on Arniston's report, That Auchinleck might infest himself on the precept of seaisine in the disposition, though the granter of the precept was dead; conform to the Act of Parliament 1693; and, being infest, might hold courts, and discern the tenants to pay him the maills and duties; and, if Mitchell would not produce him an interest, then they would either find the letters orderly proceeded, or, at least, put in a factor by order of the reporter.

*Vol. I. Page 656.*

1694 and 1695. ELLIOTS of LYMECLEUGH and PANCHRIST *against* RIDDEL of HAINING.

[See the beginning of this Case in Stair, 25th February 1681, *Commissioners of the Border against Elliots.*]

1694. *February 16.*—THE Lords inclined to think the two decreets *reductivè* obtained by the Elliots null:—*1mo.* Because one of them was after a written stop given by the Ordinary till he should hear it at his next side-bar day; and yet he gave a discharge on that stop, on perusing their bill, and finding no new matter in it; for the Lords considered that Haining was *in tuto* till they were heard again. *2do.* The other decret was precipitantly extracted by one who was both agent and extractor in the process, and who could not deny it,