

tor's price, as being above the Sheriff's fiars. *Answered*, Such rigorous specialities ought not to be regarded; but the common standard of the fiars must be the rule. THE LORDS would not precisely tie the posterior creditors to accept of the fiars, but allowed them to elect either the price actually received by Polton and Wright, or the fiars, any of the two they found highest.

No 3.

On the 24th June 1698, the LORDS advised this point; found them liable to count for a rental, because they had put in sub-factors, who were tied to diligence, but with deduction of what the common debtor had intromitted with, otherwise one creditor might collude with the bankrupt's possession, to the prejudice of the rest:

*Fol. Dic. v. 1. p. 311. Fountainhall, v. 1. p. 799.*

1734. *January.* HENDERSON *against* SIR ROBERT HENDERSON of Fordel.

No 4.

IN a case of the nature of that of Lady Samford against the Laird, No 2. p. 4413, the LORDS found the current prices must be the rule, and that the fiars are only to be laid hold upon when no other proof can be had of the real value. See APPENDIX.

*Fol. Dic. v. 1. p. 311.*

1760. *August 5.*

The TREASURER of Aberdeen, *against* Mr JOHN GORDON, and other FEUERS of the lands of Elsick.

THE TOWN of Aberdeen having purchased the lands of Elsick in the county of Kincardine, feued out the same in parcels, for payment of a duty consisting chiefly of meal, to the amount in whole of 188 bolls, to be converted yearly at the rate of the fiars of the county.

The fiars of the county of Kincardine for the year 1759, were struck by an inquest, in presence of the Sheriff, on the 21st February 1760, and thereby the fiar-price of meal was fixed at L. 4 : 16s. Scots per boll.

The feuers of Elsick presented a bill of suspension of their obligation to pay their feu-duties for that crop, on these grounds: *1mo*, The fiar-price is extravagantly high. The greatest price given for any farm-meal of that crop, can be proved not to have exceeded L. 4, Whitsunday payment; and the suspenders are willing to pay at that rate, though it can also be proved, that the current price of the best meal was only L. 3 : 10s. Scots: And the end of striking fiars is to ascertain the current medium price of grain. *2do*, The suspenders only became bound to pay by the fiars, supposing them to be struck in a just and regular manner; but these fiars were not struck according to the act of se-

No 5.

Objections to the fiars of a county, that they were exorbitantly high; that none of the jury were landed men; and that they examined no witnesses, were repelled. The objectors being bound to pay at the rate of the fiars, were obliged to account accordingly, in whatever manner the fiars were struck. They