

*exemplum in jure per contradictionem non contraversum, non trahendum est in consequentiam.* And I think the terce usually kened by sunny side and shadow *in prediis rusticis*. I scarce can see that kenning can be designed *in urbanis prediis*; or see I what may be the inconvenient in setting the two part and third. *Vide L. Burgenses*, anent the flat, *et de interiore domus parte*, appointed to the widow of a burgesse. Howsoever, Repelled the answer and duply.

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1649. June 28. GAWIN SYMPSONE *against* HILL and PUNTOUNE.

IN the process at Gawin Sympsone his instance against Hill and Puntoune,—it was excepted chiefly by Robert Hill, That he could not build a house in that his waste, lest he should wrong the said Robert his lights. To the which it was replied, That the pursuer might build on his own ground as high as he liked, if the defender were not able to show, that he had such a servitude, *ne altius tolleretur aut luminibus officeret*. Which the Lords sustained.

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1649. June 29. The TENANTS of GOLDENHOOVE *against* COLONEL RAE.

IN the action of retention, for maintenance, quartering, &c. at the instance of the tenants of Goldenhoove, against Colonel Rae, their master, it was excepted, That, by virtue of a clause contained in their tack accepted by them, they should undergo all taxations, impositions, and burdens, and free their master of the same; they could not have retention for the years within their tack, to this time: especially seeing the duty was the same in a former tack, wherein a clause of services therein contained, was, in the posterior, remitted; and, by the clause above specified, as it were innovated: considering also, that the duty of the tack was within the avail. They replied upon the Act anent liferenters, of the 6th session of the 1st triennial Parliament, 1646. But the Lords found that they did not meet, in respect there was a posterior act of maintenance concerning the relief of tenants, in remitting the trial of the worth of lands, and the comparing the same, with the duty paid to the committee of war within the shire; which thir tenants had neglected. The Lords ordained the master to relieve preceding the tacks, conform to the order then standing, and noways during the time of the tack run; and, for the time to come, gave power to the tenants to renounce their tack if they pleased.

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1649. June 29. The EXECUTORS of JAMES BARNES *against* ROBERT MASTER-TOUNE.

IN the action of suspension and reduction at the instance of the executors of