

were once allowed, then other unheard of servitudes might be introduced, such as that you shall bear a share of the expenses of the floors, and glass windows of your neighbouring tenements, seeing you are benefited thereby. The Lords, by a plurality of six against five, found that this was no servitude, but only a personal obligation on her husband; and therefore assoilzied her from any part of the reparations of the roof, her right making no mention thereof, and there being no universal custom as yet within the burgh for the same. In this cause, the servitude was instanced of all within the thirl to repair the mill, uphold the mill-dam, and to bring home the mill-stones; but that was said to be a general known servitude through all Scotland, whereas this was not.

No. 17.

Fol. Dic. v. 2. p. 373. Fountainhall, v. 2. p. 433.

1732. November 22. INHABITANTS of DUNSE *against* HAY.

No. 18.

THE erection of a town into a burgh of barony, found not to afford the incorporation of burgesses and inhabitants a title to acquire a servitude of pasturage by prescription.

1732, November 24.—But an infeftment of a house, with or without a yard, found a sufficient title to the proprietor to acquire by prescription a servitude of pasturage.

Fol. Dic. v. 2. p. 374. Rem. Dec.

* * See No. 4. p. 1824. *voce* BURGH OF BARONY.

1734. November 27.

GARDEN of BELLAMORE *against* EARL of ABOYNE.

No. 19.

ONE having given by a writ under his hand, liberty and privilege to a neighbouring heritor to cut timber in his woods, for the use of the neighbouring heritor's lands and tenantry, the Lords found this a real servitude, and good with possession against singular successors. See APPENDIX.

Fol. Dic. v. 2. p. 374.

1755. February 18. JAFFRAY *against* DUKE of ROXBURGH.

No. 20.

THE Lords found, that the inhabitants of Kelso had been immemorially in possession of, and had thence acquired a right of servitude of bleaching and drying