

No 25. In an advocacy of a judgment of the Sheriff, decerning in terms of the libel, the defender

Pleaded; In this case an implicit obedience has been paid to the injunction of the statutes, the pits challenged not being in the bed of the rivulet, but at a considerable distance. They are, farther, precisely conformable to a later statute, 13th George I. c. 26. requiring, ' That no lint or hemp shall be steeped, or watered, in any standing pool, or in any hole or pit with standing water, unless such hole or pit is dug near to the side of a running river or rivulet, from whence the said pool, hole, or pit, may be frequently supplied with fresh water, under forfeiture of the lint or hemp so steeped.'

Answered; As the water of this rivulet runs into the pits, and from thence back to the rivulet in a continued stream, the pits so constructed become a part of the rivulet, as much as if they had been dug in its original channel; and the statute of George I. which directs the operation of steeping lint and hemp to be performed where the water may be frequently renewed, was nowise intended to repeal the former law, but to guard against a practice then frequent, of watering them in moss and bog holes, and standing pools, by which they were greatly damaged.

THE LORDS thought that persons steeping lint were entitled to take water from a running stream for the use of their lint-holes, and to renew the water therein from time to time, when necessary; but were not entitled to divert the course of any part of a rivulet into a lint-hole, in the manner here followed.

They, therefore, " remitted the cause *simpliciter*."

Reporter, *Lord Alva.* Act. *Buchan-Hepburn, John Erskine.* Alt. *Nairn.*
Clerk, *Colquhoun.*

C. *Fol. Dic. v. 4. p. 202. Fac. Col. No 7. p. 15.*

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Whether a tradesman's sign-board may be affixed to the wall of another person's house? See No 23. P. 13182.

1783. February 27. GEORGE MURDOCH *against* ALEXANDER DUNBAR.

MURDOCH, a baker in the town of Nairn, having, as had been sometimes done by others formerly, affixed his sign-board to the wall of a house, situated over the entry to a public lane, in which his bakehouse stood, and possessed by Dunbar; the latter, displeased at the circumstance, without obtaining any public authority, took it down, and carried it into his own house. The Magistrates, in consequence of a complaint against him preferred by Murdoch, besides ordering him to re-place the sign-board on the wall, imposed a fine of 20s. on him for the use of the public, and another of the same amount for that of the private party.

Of this judgment Dunbar presented a bill of suspension, which was refused by the Lord Ordinary on the bills.

Dunbar reclaimed to the Court; who, on advising his petition with answers, adhered to the Lord Ordinary's judgment; and a second reclaiming petition for him was refused without answers.

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Lord Ordinary, *Monboddie*. For Dunbar, *Henry Erskine*. Alt. *Elphinston*.
S. *Fol. Dic. v. 4. p. 200. Fac. Col. No 101. p. 160.*

1783. *March 3.* Sir WILLIAM FORBES, and Others, *against* JOHN RONALDSON.

ON the west side of the entry from the High street to Gray's close there is a piazza supported by pillars, bounded on the south and west by a shop and cellar belonging to Mr Ronaldson, and on the north by the plain-stone pavement.

Mr Ronaldson intending to advance his shop to the pavement, by taking into it the area occupied by the piazza, obtained for this purpose consent of some of the inhabitants of Gray's close, and a warrant from the Dean of Guild of the burgh.

Of this procedure, as prejudicial to the public, by narrowing the entry to the close, and depriving passengers of the shelter afforded by the piazza, Sir William Forbes and others complained by bill of suspension.

Pleaded in defence; As the rights under which the defender possesses his shop and cellar are limited by 'the entry to Gray's close on the east,' and 'the public street on the north,' the area within the piazza, which, with no propriety, can fall under either of these descriptions, must be held as his property, by occupying which occasionally with articles of merchandise, he has derived every benefit of which, in its present condition, this spot of ground is capable. Nor can the transitory accommodation of ten or a dozen of passengers, when productive of no sort of inconveniency to the defender, be presumed to have introduced a servitude of this anomalous nature, and to have disabled him from converting his property to a more beneficial purpose.

Could this space be considered as a part of the public street, it ought not to be permitted to a few individuals, from motives of caprice, to oppose an alteration which, without any sensible inconvenience to the public, is greatly conducive to the beauty of the street, and which, on this account, has received the approbation of the neighbours, and of that officer within the burgh whose peculiar province it is to superintend matters of this sort. Hence, though by far the greatest part of the high street of this city seems in ancient times to have been bounded by piazzas, scarcely a vestige of these remains; the conterminous heritors, when rebuilding their houses, having been allowed without challenge to follow the measures adopted by the defender.

Answered; From the history of this city it appears, that in the beginning of the 16th century the Magistrates, in order to promote the sale of the wood belonging to the community, permitted the purchasers to advance the front of

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Found that the piazzas on the sides of the High street of Edinburgh, could not be built up by the proprietors of the shops under them, the same being the property of the public, and that every inhabitant of the burgh has a right to put a stop to such encroachments attempted by individuals.