

NO. 2. “ supply a lint-mill, or for any other purpose, without the consent of the
 “ opposite proprietor ; and therefore assoilzied the defender, in so far as it
 “ was craved to discharge him from interrupting the carrying on of any
 “ works, that tend to divert the stream from its channel, or for carrying the
 “ half of said stream through the pursuer’s lands.”

A petition for the pursuer, craving that he should at least be allowed to take off a lead, provided he returned the water above the wauk-mill dam, was, on a report from a surveyor, refused, (6th March) without prejudice to the pursuer erecting machinery on the present situation of the eel-cruive.

Lord Ordinary, *Monboddie*.
 Alt. *Solicitor-General Blair*.

For Braid, *J. & W. Clerk*.
 Clerk, *Menzies*.

D. D.

Fac. Coll. No. 169. p. 355.

1800. February 5. CLEMENTINA SHARP, against MATHEW ROBERTSON.

NO. 3.
 In a house of several storeys, belonging to different persons, the proprietor of the upper storey and garrets cannot raise the walls and alter the shape of the roof, so as to convert the garrets into an attic storey, without consent of the inferior proprietors.

OF a house in the city of Glasgow, consisting of three floors and garrets above the shops, Clementina Sharp, proprietress of the upper storey and garrets, (under obligation to repair the roof), proposed, by raising the walls and altering the shape of the roof, to convert the garrets into an attic storey ; and applied to the Dean of Guild for liberty to make the intended alterations. The Dean of Guild, on a report of tradesmen, that the walls would not be injured, and her giving caution *de damno infecto*, gave her liberty to proceed.

Mathew Robertson, one of the inferior proprietors, complained by three bills of advocation, which were at first refused, but were passed, on a petition to the Court.

The averments of parties as to the prejudice or benefit which would result to the inferior proprietors from the proposed operations, by increase of pressure on the walls or otherwise, being directly opposite to each other, the Lord Ordinary had allowed a proof before answer.

In a petition for Robertson, and answers for Mrs Sharp, the relevancy of this proof was argued upon grounds not materially different from those in

the reported cases, 20th June 1799, Anderson against Dalrymple, No. 41. NO. 3.
p. 12831. ; and 16th November 1799, Reid against Nicol, No. 1. *supra*.

The Court, upon the principle there adopted, altered the interlocutor, and gave judgment against Mrs Sharp.

Lord Ordinary, *Stonefield*.
Clerk, *Sinclair*.

For Sharp, *Greenshields*.

Att. *T. W. Baird*.

D. D.

Fac. Coll. No. 164. p. 368.

1800. *June 24.*

WILLIAM JAMESON and Others, against ANTHONY and THOMAS HILLCOATS and Others.

NO. 4.

ABOUT 1783, a company of manufacturers of Prussian blue, near Newcastle-upon-Tyne, instituted, upon the lands of Figgot, within two or three hundred yards of the village of Portobello, and not far from the junction of the roads from Edinburgh, Leith and Musselburgh, on the one side, and the sea-shore on the other, a work for the preparation of blood, by boiling, or roasting, as an ingredient in their manufacture ; and for this purpose purchased the whole blood from the shambles of Edinburgh.

The preparation of blood as an ingredient in the manufacture of Prussian blue, prohibited, as a nuisance, in certain circumstances.

Not long after this operation had been begun, William Jameson and other proprietors at Portobello, complained of the smell emitted from it, as a nuisance, by an action before the Sheriff. The Magistrates of Edinburgh and Procurator-fiscal made a similar complaint.

The Sheriff pronounced an interlocutor, by which he declared, that he would not order the work to be removed, provided the proprietors of it would erect a building for carrying it on, of the shape and height of the highest glass-house at Leith; by which means he supposed the offensive smell would be removed.

The pursuers advocated the cause to the Court of Session, where it was allowed to fall asleep about 1788, without any judgment being given on the merits.

The work was carried on with little intermission till 1798, and without the building suggested by the Sheriff being erected. By this time Anthony and Thomas Hillcoat had acquired right to the blood-work, which was conducted for behoof of the proprietors of a manufacture of Prussian blue, near Berwick. And William Jameson, and other proprietors at or near Porto-