

REPARATION.

No. 1. 1735, Dec. 6. TURNBULL *against* BROWNFIELD.

THE Lords remitted to the Ordinary to take a further proof of the master's knowledge. They were much divided. Newhall thought where animals were kept for pleasure the master was liable for all damages whether *secundum naturam vel contra*. The President thought, first, that spaniels naturally are disposed to worry sheep; 2dly, he thought that where the use of often doing damage must be proven that the master's knowledge need not be proven, and Dun was of that opinion. But the above interlocutor carried six to five. For it were Royston, Drummore, Haining, Kilkerran, Murkle, *et ego*, who thought the master's knowledge necessary. Against it were Newhall Tweddale, Dun, Couper, Monzie.

No. 2. 1737, Jan. 6. SUTHERLAND *against* LADY GEES, &c.

THE Lords found that the tenants of Lady Gees and her husband were *in culpa* in kindling the heap of peats, and that it was presumed that that occasioned the fire, and therefore adhered to the interlocutor 16th July last finding the tenants liable in the damages of burning the house.—23d November 1736.

The Lords, 14th December, found Robertson liable as well as the Lady Gees, and January 6th 1737 adhered.

No. 3. 1741, June 5. YORK-BUILDINGS COMPANY *against* W. ADAMS.

THE Lords notwithstanding the terms of the tack found the Company obliged to repair what extraordinary damage happened through the hurricane 14th January 1734, and in order to ascertain the same remitted to the Ordinary to take a proof of the condition of the houses before the storm, and what extraordinary damage was then done, and what it may cost to repair the same.

* * The case of Sir John Baird 10th July 1741 here referred to is thus mentioned:

The Lords adhered to Kilkerran's interlocutor not only finding the master liable in the damages by the hurricane, but ascertaining them by a certain rule, though possibly by that rule both master and tenant might be prejudged in some minute article, because it was impossible to determine such questions minutely. *Vide* 5th June 1741, York-Buildings Company against Adams.

No. 4. 1748, Feb. 15. PROFESSOR FORDYCE *against* A. ABERDEEN, &c.

THE President was of opinion that in case of a verbal injury, a recent acknowledgment begging pardon *tollit injuriam*; and in this case though the expressions were highly injurious, yet because of Fordyce's recent offers to make acknowledgments, the Lords remitted to the Commissaries to take his acknowledgments begging pardon signed by him, and thereon to assoilzie the defender.