

the subject in good order ; Durnford's Reports, Bulloch against Dommit ;\* and on their negligence in leaving a kiln, so constructed, at night, without a watch ; Vinnius' Inst. lib. 3. T. 25.

No 71.

The defenders maintained, that a tenant is in no case liable, where the subject is burned by accident ; and contended, that the fire, in the present case, was occasioned by the improper construction of the kiln, which, though known to their servant, was concealed from themselves ; and that it was not usual to watch kilns in the night time.

A considerable majority of the Court thought there was sufficient evidence of negligence on the part of the defenders to support the interlocutor ; and on that ground adhered.

Lord Ordinary, Swinton.  
D. D.

Act. *Ja. Ferguson, jun.*Alt. *Cha. Brown.*Clerk, *Sinclair.**Fac. Col. No 43. p. 191.*

## S E C T. VIII.

Whether a Creditor runs any hazard of the subject burdened with his debt.

1662. *June 26.* ADAMSON *against* LORD BALMERINO.

No 72.

A TENEMENT, out of which an annualrent was payable, being laid waste, several years deduction was sought by a singular successor in the tenement, of the annualrents of these years, as is frequently done in feu-duties.—*Answered*, Tho' in some cases feu-duties cease by devastation, this was never extended to annualrents due for the profit of a stock of money. The defence was repelled.

*Fol. Dic. v. 2. p. 61. Stair.*

\* \* This case is No 3. p. 3346, *voce* DEBTOR and CREDITOR.

1686. *January.* GEORGE MONTEITH *against* ANDERSON.

JOHN ANDERSON having right by progress to an infeftment of annualrent of L. 80 yearly out of a tenement of land in Edinburgh, pursues pointing of the

No 73.  
Found, that  
by act 10th,  
Pail. 1551.

\* The Reporters do not, in any case, vouch for the accuracy of references to authorities from the Law of England.