

APPENDIX.

PART I.

DOVE-COTE.

1752. July 2. LORD LYON *against* Sir ROBERT GORDON.

By the act 19, parl. 1617, every man is prohibited from building a pigeon-house, who has not lands within two miles of the same, to the extent of 10 chalders yearly rent. And, *2do*, He who has the aforesaid 10 chalders is entitled to have but one pigeon-house. A gentleman having already three pigeon-houses upon an estate of 60 chalders, lying compact and contiguous, and intending to erect a fourth, the question occurred, Whether a proprietor must be satisfied with one pigeon-house, whatever be the extent of his estate, within two miles of the same; or whether he is entitled to build a pigeon-house for every 10 chalders? *Elchies* observed, That if this gentlemen should sell 10 chalders, the purchaser would have right to built a pigeon-house; and if the lands should be purchased back with the pigeon-house, the gentleman would be under no obligation to demolish; *ergo*, there must be liberty to build a pigeon-house for every 10 chalders; which accordingly was the opinion of the Court.

This act cannot reasonably be understood as taking away a right inherent in all men of defending themselves and their property; but only as one way of lessening the mischief done by pigeons, which is to limit the number of pigeon-houses. Good neighbourhood requires that I should endeavour to chase away my neighbour's pigeons without doing them any harm; but if by the number of pigeon-houses round me, or by the voracity of pigeons, this cannot be effectually done, the law of nature entitles me to proceed to blood. It is in vain to talk of damages, which, in this case, cannot be ascertained with any certainty. There is no statute against rabbit-warrens, though very ready to in-

No. 1.

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No. 1. fest neighbouring grounds. It appears to me clear, that I may lawfully kill my neighbour's rabbits, if I find them burrowing in my ground. The case of pigeons is in this respect perfectly similar.

Select Decisions, No. 12. p. 14.

* * * This is the same case which will be found under the names Brodie against Gordon, from the Faculty Collection, *voce* DOVE-COTE, p. 3602.



1797. *January 19.*

WILLIAM MURRAY, with concurrence of the Procurator Fiscal of the County of Haddington, *against* ROBERT TURNBULL and ADAM RUSSEL.

No. 2.

A complaint for shooting pigeons, founded on the acts 1567. C. 16. and 1597, C. 270, cannot be competently brought before the Justices of Peace.

Fac. Coll.

* * * This case is No. 341. p. 7628. *voce* JURISDICTION.