

## S E C T. IV.

## Betwixt Proprietor and Custodier.

1734. December 21.

JOHN CAMPBELL, Taylor in Edinburgh against CHARLES M'CLARIN.

A BURGESS of Edinburgh, who had a country-house some miles from the town, was in use, when his family was not there, to trust the key of his outer door with his gardener. Some goods in a chest of drawers, to the value of L. 5, being stolen, while the master was in town, the servant was found liable for the same, though it was not pretended, that he, or any of his family, had committed the theft; and though it was *pleaded* for him, That he was liable in no sort of diligence further than to keep the outer door locked: But the LORDS went upon this circumstance, that he had been *versans in illicito*, in so far as one night he had lodged a travelling packman in the house, which they thought sufficient to throw the burden upon him, though he made out clearly, that the packman could not be the person who stole the goods. See APPENDIX.

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## S E C T. V.

## Betwixt Merchant and Shipmaster.

1677. November 7.

LAWRIE against ANGUS.

THOMAS LAWRIE, merchant in Edinburgh, having obtained decret against James Angus, skipper in Leith, for 500 merks, for the damage of a box of silk ware, which was wet by the leakage or spouting of the pump, and L. 100 for detaining the said Thomas's ware, and not delivering the same at the arrival of the ship, though he required it, and offered the freight; James the skipper suspends, and raises reduction on these reasons, *imo*, That the Bailie had done wrong in repelling this defence, that the ship and pump were sufficient at the embarking of the goods; and that the merchant himself was present in the ship with the goods, and that this box damnified was stowed in a secure place in

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A shipmaster found liable for the damage of silk put near the pump, altho' the merchant was on board during the voyage.