

inserted in the draught of a bond required of him, acknowledge a guilt which he denied ; and that he was not bound to depone upon such injurious expressions, and so could not be holden as confessed thereon ; and that the Magistrates, by their answers, had passed from the fine, and so could not now insist for it ;—the Lords thought justices of the peace were not tied to the forms of other courts but in petty riots ; and, for vindicating their own jurisdiction, they might proceed *de plano, sine strepitu et figura judicii* ; and that citizens were not to be enraged against their Magistrates ; and, on the other hand, they are not to be armed with too much power to oppress their burghesses. Therefore they ordained the bond to narrate his faults as a part of the decreet pronounced against him, and not as his confession ; and did not allow the Magistrates to retract their offer of passing from the fine on his subscribing a bond ; and restricted the penalty to £100 Scots ; and, on his granting such a bond, ordained him to be set at liberty.

*Vol. I. Page 678.*

---

1695. *November 19.* The INHABITANTS of LEITH *against* The MAGISTRATES of EDINBURGH.

A BILL of suspension was given in by the Inhabitants of Leith, against the Magistrates of Edinburgh, of an unjust quota and proportion of cess laid upon them for their houses and trades, to relieve Edinburgh *pro tanto* ; and, to facilitate the passing of their suspension, they also raised a declarator of their privileges and exemption from any such illegal impositions, and that they ought to pay only for their ground, and be stented and assessed with the shire ; and could not relieve Edinburgh of any share of their quota, unless they would allow them to be a royal burgh, (for which they had once an erection in Queen Mary's regency ; ) or else give them a participation of trade ; which, by the 31st Act of Parliament 1693, is communicated to burghs of barony and regality.

ANSWERED,—The Town of Edinburgh, in paying all their public burdens, not only assessed the royalty, but all their dependencies, and Leith amongst the rest ; and it is so provided by the 14th Act of Parliament 1661, dividing the excise amongst the several shires and burghs ; and the Canongate might as well plead immunity as Leith ; and, at this rate, the payment of the King's cess may be altogether stopped and disappointed.

The Lords, considering that, for many years bygone, Leith had borne a part of the Town of Edinburgh's quota, and if the inhabitants of Leith were grieved, they might get retention or redress in subsequent terms' cess not yet fallen due, and to stop the custom might create confusion ;—they refused the Town of Leith's bill of suspension, but prejudice to them to insist in their declarator, as accords ; and would not summarily invert the Town of Edinburgh's possession.

*Vol. I. Page 679.*

---

1695. *November 20.* BAIRDNER of CULTMILN *against* The LORD COLVIL and OTHERS.

IN the action pursued by Bairdner of Cultmiln, against the Lord Colvil and