

Queen Mary from the Logans of Restalrig, she disposed it to the Town of Edinburgh. Now, her Majesty conveyed no more than what the Logans had ; but so it is, this tenement of Coatfield never belonged to the Logans, who came in place of the Leiths of that ilk, but were mortified to the Trinity Hospital, and so quite of a distinct nature from the rest of the buildings in Leith.

DUPLIED,—It is a great mistake to think the Town of Edinburgh has no other right to Leith but the Queen's assignation ; for they had sundry contracts betwixt them and the heritors of Leith, some hundreds of years before Queen Mary's reign. And Durie, at the 12th March 1630, speaks of a servitude granted to the Town over Leith in the year 1398, in King Robert III's time ; and in the late debates betwixt Leith and Edinburgh, about their privileges of trade, many other instances were adduced.

The Lords repelled Mr Douglas's defence, and found him liable to the Town's imposition of two pennies on the pint of ale brewn within the tenement of houses lying in Leith, especially considering the tacksmen had been in possession of it from his tenants these many years bygone ; reserving his declarator against the Town as accords.

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1709. December 29. WILLIAM CARRUTHERS *against* PATRICK CRAWFURD.

ANDREW Crawford, merchant in London, being debtor in considerable sums to sundry persons, flies with his effects to Scotland ; whereupon his creditors apply to the Privy Council, and, without a caption or any other diligence, get a warrant summarily to apprehend him, as a bankrupt stranger, seeking to defraud his creditors, till he should find caution *judicio sisti* ; whereupon, to prevent his imprisonment, he finds Patrick Crawford, merchant in Edinburgh, cautioner for him ; who, after some trial, obtains an absolvitor, and an order to give him his bond of cautionry. The Scots Council being now dissolved, William Carruthers, one of the creditors, raises a reduction of that Council-decreet before the Lords of Session, as contrary to law.

ALLEGED for Patrick Crawford,—That the Privy Council being a supreme coördinate court, the Lords were not competent judges to the reviewing or reducing their decreets, no more than they could meddle or cognosce on the Session-decreets ; for though, in questions dipping on civil rights, the Lords have reviewed Council processes, yet in cases of extraordinary remeids, such as the arresting and attaching of strangers, the Lords never used to interpose, except once in *Street and Jackson's case* against *Mason the bankrupt* ; and therefore none can judge of this attachment and bond of presentation now, but only the Council of Britain, into which the Scots Privy Council is absorbed and incorporated, especially seeing you have neglected to seek redress from the Scots Council, it being several years before their dissolution ; and *l. 43, sect. 1, D. de Verb. Obligat.* says, *Si quis, arbitrato Lucii Titii, restitui sibi stipulatus est, deinde stipulator moram fecerit quo minus arbitretur Titius, promissor quia moram fecit ideo non tenetur* ; and so you having acquiesced in the sentence by so many years' silence, you cannot be heard to quarrel it now.

The Lords thought the case properly fell under the Privy Council's jurisdiction, and therefore refused to sustain themselves judges to the reducing thereof.
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1709. *November 8 and December 30.* JAMES GREENSHIELLS *against* The
 MAGISTRATES OF EDINBURGH.

November 8.—Mr James Greenshiells, having been an Episcopal minister in Ireland, and coming to Edinburgh, takes up a meeting-house, wherein he reads the English liturgy, with their service and ceremonies, for the use of the Englishmen and others that had not freedom to join in communion with the Scots Presbyterian church and their form of worship. The Presbytery of Edinburgh looking on this as a derogation and innovation to their establishment and the purity of their discipline, they summoned him to compear by their beadle; who declines their jurisdiction and authority, as noways judges to him, who was of another communion, *viz.* of the Church of England; and that the Union had incorporated the Episcopal church of Scotland, and made it a part of the national church of England. And being asked by what warrant he assumed the power to preach, he produced a patent or diploma from Mr James Ramsay, late Bishop of Ross, in 1694, making him a presbyter *secundum ritus et formas ecclesie Scoticanæ*. Which ordination, flowing from an abdicated and exauctorated bishop, five years after their abolition, could be no warrant nor legal institution; whereupon they discharged him to exercise any part of his ministerial function within their bounds; and he disobeying the next Sunday after his prohibition, the Magistrates of Edinburgh called him, and required him to desist; which he refusing, they put him in prison in September last, and offered, on his enacting himself to forbear, then to set him at liberty. But he, not complying, gave in a bill of suspension to the Lords, containing a charge to set at liberty, on thir reasons:—That, by the 16th Act of the meeting of the Estates in 1689, all ministers, either in churches or meeting-houses, are to be protected; and that there is no law empowering the magistrates to imprison any for using the service and liturgy of the Church of England. And the dissenting Presbyterian ministers in Ireland, (though they enjoy not that toleration given by Act of Parliament in England,) are not disturbed by the Episcopal clergy there; and, by the same rule of parity, the Presbyterian brethren in Scotland should give the same tender forbearance they meet with there. *2do*, He is fully qualified to the civil government, by taking the oaths to the Queen, and the abjuration against the Pretender; seeing they can neither charge him with error in doctrine nor immorality in his life and conversation: And he ought to have the benefit of the 27th Act of Parliament 1695, giving protection to all ministers who shall qualify themselves, by swearing to the civil government, which he has done; and the 6th Act, in 1701, has provided for our personal liberty, as one of the most dear and precious interests of mankind. And though his ordination be from an outed bishop, yet that no more invalidates it than the Presbyterian ordinations were in the time of Episcopacy; for though they were declared null by the 9th Act of Parliament 1672, yet the Presbyterian principles then taught, that no civil legislative power could deprive them of the right of continuing and ordain-