

1741. July 28.

HAMILTON *against* BOYD and others.

No 340.

THE LORDS found the time allowed by act 1703, for trying the crime of importing Irish victual, was not limited by that statute to six months; and that that limitation respected only the superadded penalty of transportation of the offenders.

Fel. Dic. v. 4. p. 109. Kilkerran.

* * * This case is No 70. p. 7335. *voce* JURISDICTION.

1747. January 13.

The BOOKSELLERS of London *against* The BOOKSELLERS of Edinburgh and Glasgow.

By a statute of 12th Geo. II. it is enacted, ‘ That after the 29th of September 1739 it should not be lawful to bring into the kingdom, for sale, any book first composed and printed there; and that any person so importing, or knowingly selling any such book so imported, should forfeit all the sheets, to be made waste paper, and should further forfeit L. 5 Sterling, and double the value of every book, one half to the King, and the other to any that should sue for it, provided that the act should not extend to any book that had not been printed within twenty years before its importation.’

On the foundation of this act, Andrew Miller and others, booksellers in London, brought an action against Messrs Hamilton and Balfour, booksellers in Edinburgh, and Andrew Stalker, bookseller in Glasgow, for importing certain books, their property, which had been printed within twenty years in this kingdom, concluding for the penalties, with an alternative, that the defenders ought to pay them damages for every surreptitious copy sold by them; in name whereof they claimed only the profits made on the sale of the said copy, and to forfeit the remaining copies, to be destroyed; and in the process they restricted their libel to this conclusion; and offered to prove the number sold, by their books or oaths.

How far an action of damages was competent, either on this statute or on one prior thereto, 8th *Annæ*, was a question which was not at this time determined; but, being still *sub judice*, shall be noticed in its proper place. But the present dispute was, whether the defenders could be obliged to discover what they had sold, upon oath, or by production of their books, as it was alleged that there were penalties hanging over them, which, being partly due to the King, the pursuers could not waive.

Pleaded for the pursuers, ‘ That the action for penalties was prescribed; for that, by an English act in Queen Elizabeth’s time, a general limitation was enacted:

No 341.

Penalties enacted by a British statute, were found to be limited with regard to Scotland, by a general limitation of penalties enacted in England before the Union.