

though they kept within the bounds of truth, yet dressed up the story in colours very disadvantageous to some of the magistrates of Edinburgh who were upon the spot attending the settlement, insinuating several sharp reflections against them. Among others, several queries were adjected, such as 'it is submitted to the judgement of mankind if there was much more order, caution, and discretion observed by those who took upon them to compose the tumult, than even by the mob itself. And it may be justly queried, whether the ordering out the city-guard, without the bounds of the city, to act a part in this affair, and whether imprisoning Fleucher the beadle were legal? whether the town-guard firing, killing, and wounding so many persons, without reading the proclamation, as the law directs, be not a great crime? and whether the captain of guard's beating Mr M'Vicar's children and servants was not a manifest riot, if not hamesucken?' This matter having been brought before the Lords in the shape of a reduction of an inferior decret, in which the news-writer had been fined in L. 10 Sterling; it was *pleaded* for him, That news-writers, by inveterate customs, are tolerated to publish historical accounts of transactions foreign and domestick, whether reflecting honour or reproach upon the actors. *Answered*, Libels of scandal are prohibited in whatever shape they come out; the above paragraph is not in the spirit of a cool news-writer, but bears evident marks of rancour and resentment; and supposing the magistrates to have been in the wrong, the parties injured, or those employed by them, ought not to inflict punishments at their own hands, while there are laws in being, by which they may be redressed. For this reason it is that *veritas convicii non excusat*. THE LORDS assoilzied from the reduction.

*Fol. Dic. v. 1. p. 233.*

1752. February 29. ELIZABETH SYMMOND *against* JEAN WILLIAMSON.

CERTAIN Port-Glasgow ladies and gentlemen, having, after the example of their betters, convened in the house of John Allason baker, for a dance; the conversation happened to turn upon the said Elizabeth Symmond, who was not present; and Allason having dropped certain expressions that gave Mrs Scott ground to think, that he thought said Elizabeth handsomer than her, Mrs Scott thereupon said, Did he compare Symmond to her? and fell into a passion, and gave her very opprobrious names, saying, that (Fleeming) her father had been a footman, and that her mother had kept a bawdy-house, and that if she did not cuckold her husband, it was not her fault, &c.

But, upon Allason's saying, that he would report this to Mr Fleeming, Mrs Scott said she blamed him, for he had put her in a passion; and added, what she had said of Mrs Fleeming was all lies, and that she had no ground for saying it; and, in a few days thereafter, she was also heard to repent of her having

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pressions injurious to magistrates, relative to their conduct in suppressing a riot.

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Defamatory expressions immediately repented of, slightly punished.

No 7. uttered the said expressions, and to wish Mrs Fleeming might be reconciled to her.

Allason was nevertheless indiscreet enough to report to Mrs Fleeming the defamatory expressions which Mrs Scott had uttered; whereupon Mrs Fleeming and her husband brought a process of scandal against Mrs Scott before the Commissary of Glasgow, concluding for damages and a fine, and proper palinode, for that the expressions were scurrilous and malicious; and the defender, along with her answers, gave in a fresh declaration, that she was sorry for the expressions she had uttered, that she had no just cause for them, but was moved by passion.

The Commissary, upon advising the proof, which he had allowed before answer to either party, and which came out just as is above related, 'Assoilzied the defender from damages and fine, and ordained her to compear on a day and hour certain, in the house of the said John Allason, and there, in the presence of the bailie of Port-Glasgow, and of the persons who were present at uttering the expressions, or others whom the pursuer might call, acknowledge and declare she had no just cause for the said expressions, and beg the pursuer's pardon, all under the penalty of L. 5, to affect the defender's part of her husband's executry, if incurred.'

The pursuer presented a bill of advocation, which the Ordinary, upon advising with the Lords, 'refused;' and the pursuer having reclaimed, 'the petition was refused without answers.'

*Vol. Dic. v. 3. p. 178. Kilkerran, (DELINQUENCY) No 17. p. 165.*

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1763. January 28. JOHN FINLAY *against* RUDDIMAN.

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The publisher of a newspaper was condemned in L. 15 Sterling as damages to a gentleman who thought himself pointed out by an indirect and unguarded expression.

IN the Edinburgh Caledonian Mercury, dated 17th September 1760, the following paragraph was inserted upon the authority of an anonymous letter from Glasgow: 'Saturday one John Finlay a shoemaker was taken into custody for committing a rape on a servant-maid belonging to one of our present magistrates, which, with other bad usage, has occasioned her death. He is a worthless fellow, and it is hoped will receive a punishment adequate to his many atrocious crimes.' The publishers of this paper soon being convinced that their information was false, published the following article in their paper, 27th of December 1760: 'We have reason to believe, that several paragraphs of the letter from Glasgow, inserted in our paper of the 17th, are groundless; particularly that concerning John Finlay shoemaker. This letter appears to us to have been wrote with a malicious design. We are sorry we took any notice of it; and are making every inquiry that can tend to a discovery of the imposition. In the mean time, in justice to Mr Finlay, we can assure the public, that the above mentioned paragraphs are void of foundation.'