

jurisdiction, from Royal Burghs. It was also noticed, that the burgh of Paisley, instead of a subject superior, holds of the Crown.

No 389.

THE LORDS, therefore, sustained the jurisdiction in question.

Reporter, *Lord Dregburn.*

Ast. Cullen.

S.

Fol. Dic. v. 3. p. 362. Fac. Coll. No. 152. p. 303.

*** *See BURGH ROYAL.*

DIVISION XVIII.

Presbytery.

1768. *July 22.*

MR GEORGE BROWN *against* The HERITORS OF DUNFERMLINE.

IN the beginning of the last century, the Magistrates of Dunfermline, upon the narrative, that Anne of Denmark, Queen to James VI. had mortified L. 2000 Scots, for that and other purposes, granted bond for themselves, and their successors in office, to pay L. 100 Scots of salary to the Master of the Grammar School, provided that he should be admitted with consent of the Queen, and her successors in the lordship of Dunfermline, or of the heritable Bailie thereof.

No 390.
Presbyteries
have no power
to modify
a schoolmaster's
salary.

Mr George Brown was admitted by the Magistrates in 1748, with consent of the Marquis of Tweeddale, heritable Bailie; and, by contract with the Magistrates, accepted of L. 140 Scots, as his salary; including the L. 100 Scots, payable out of the mortification, with L. 40 more, revokable by the Magistrates at pleasure.

No salary having been settled by the heritors, Mr Brown applied to the Presbytery, who sustained themselves competent, under the statute 1633, c. 5. as having come in place of the Bishop; and found, that the mortification is no part of the legal provision for the schoolmaster; and modified 200 merks, including the L. 40 settled by the town, as the legal salary of the schoolmaster, in all time coming; and appointed the heritors to stent themselves, conform to their valued rent, for the remainder of the 200 merks.

The heritors brought an advocacy, and *pleaded*, That the sentence of the Presbytery was null and void. Every thing respecting the settling of schools is regulated by the act 1696, c. 26. by which the Presbytery have no other

No 390. power in that matter, but to call a meeting of the heritors; and, in default of such meeting, to apply to the Commissioners of Supply, to modify a salary, not under 100, nor above 200 merks, and to assess the lands in the parish proportionally. Indeed, the act gives no power whatever to the Presbytery, in a case like the present, where a schoolmaster is already settled, with a salary considerably above the *maximum*.

“ THE LORDS found, that the Presbytery has no jurisdiction in this matter; and, therefore, advocated the cause, and assolzied.”

Reporter, *Pitfour*.

Act. *Macqueen*.

Alt. *Solicitor Dundas*.

G. F.

Fac. Coll. No. 74. p. 318.

DIVISION XIX.

What Courts competent for Registration, in order to do Diligence.

1692. November 8. SHAW against KENNEDY.

No 391.

A BOND, registered in a jurisdiction where the debtor dwells not, is a null decree, as pronounced *a non suo iudice*.

Fol. Dic. v. 1. p. 510. Fountainhall.

* * * This case is No 72. p. 2146. *voce* CAUTIONER.

1703. February 3.

No 392.

It was objected against some arrestments, that the bonds on which they proceeded, though for considerable sums were registered in the Commissary-court books, on which registration no di-

SIR GEORGE WEIR of Blackwood against WILLIAM COCHRAN of Kilmarnock, and Others.

IN the competition betwixt Sir George Weir of Blackwood, William Cochran of Kilmarnock, and other Creditors of John Corse, merchant in Glasgow, it was objected by Blackwood, that though his arrestment was posterior in date to the other creditors, yet it was preferable in law, because he had registered his bond in the books of Session, and taken out letters of arrestment thereon; whereas Kilmarnock's bond was only registered in the Commissary-court books of Glasgow; and on their precept the arrestment is laid on, which is null, being *forum incompetens* for so great a sum as 3000 merks, *et ultra vires*