

No 323. and after proclamation made, to give proper certificates thereof, with certification."

This sentence being complained of by bill of suspension, the Ordinary, before whom it came, "Refused the bill;" but the suspenders having reclaimed, the LORDS appointed the bill to be seen; at the same time declaring their opinion in such a manner, that it is not likely the case will be again heard of.

THE LORDS were clear, that there lay no jurisdiction with the Justices of the Peace to judge in such matters; and the remedy, in a case of a groundless refusal, was thought to be for the parties to protest upon the refusal to proclaim; and that in that case there would be no penalty due for marrying without proclamation.

Fol. Dic. v. 3. p. 359. Kilkerran, (JURISDICTION, &c.) No 6. p. 314.

1750. July 28.

KENNEDY against DUNLOP.

No 324.
Suspension is not competent of the proceedings of Justices of Peace, on an act 13th Geo. I. for regulating linen manufactures.

A COMPLAINT was given in to the Justices of Peace for the shire of Stirling, by Alexander Kennoway stamp-master in Linlithgow, against certain persons in Stirling and St Ninians, for importing bad lint-seed, and exposing it to sale, contrary to the sanction of an act 13th Geo. I. for the better regulation of the linen manufactures in Scotland, whereby it was forfeited; and they having denied the exposing to sale, compearance was made for John Dunlop merchant in Rotterdam, for his interest, as having furnished the lint-seed, who *pleaded*, That by the statute forfeiture was only inflicted for exposing to sale.

The Justices condemned the lint-seed, and a bill of suspension was offered.

Answered; The statute prohibits the importation of bad lint-seed; and, in an after clause enacts, That all offences against it, shall be determined by the Justices; whose sentences shall not be stopped by any suspension or other process whatsoever; providing that an appeal shall be competent to the quarter-sessions, whose determination shall be final.

Deplied; There is no forfeiture inflicted for bare importation; so in this case the Justices have usurped a jurisdiction not given them by the act, and their decret may be suspended. The suspender also contests the insufficiency of the seed, which was only something discoloured by accidents in the voyage; and if it should appear to be insufficient for sowing, it is no ground for forfeiting it, so long as it was not exposed to sale for that purpose, but it may be used for oil.

Duplied; The act discharges importation, and declares the Justices exclusive Judges of offences against it. When a fact is prohibited, without a certain penalty, the Judges must determine the penalty, and here they have inflicted forfeiture; and no doubt might have imposed a fine, and poynded the goods for it, which would have been equivalent; but whether they have judged well

or ill, it was their judgment, and the only remedy was an appeal to the quarter-sessions.

No 324.

THE LORDS found the suspension not competent.

Act. *W. Grant.*Alt. *R. Craigie.*

Fol. Dic. v. 3. p. 358. D. Falconer, v. 2. No 155. p. 179.

1752. February 4.

BELL against DUNDAS.

No 325.

DUNDAS pursued Bell before the Justices of the Peace, for having injured him by a defamatory libel.

Pleaded for Bell in a bill of advocacy; Justices of the Peace have no jurisdiction in the crimes of slander and defamation, which must in the first instance be tried before the Commissaries.

Answered for Dundas; The libel contains expressions which import a threatening to break the peace; and besides it reflects on Dundas for words uttered by him at the quarter-sessions held by the Justices of the Peace, who therefore are proper Judges of an injury offered to a member of their court. Even judges of inferior rank and less authority, may punish injuries offered to any of their number, on account of words uttered, or things done, in court; as appears from the decision, 14th November 1679, Magistrates of Kirkcaldy against Dougal, No 98. p. 1984.

“THE LORDS refused the bill of advocacy.”

Reporter, *Woodhall.*Act. *A. Lockhart.*Alt. *R. Dundas.*

D.

Fol. Dic. v. 3. p. 358. Fac. Col. No 1. p. 3.

1754. March 10.

BUCHANAN against TOWART.

No 326.

By the 18th act, *anno* 1st Geo. I. entitled, “An act to encourage the planting of timber trees,” &c. the Justices of Peace are authorised to “hear and finally determine” all offences against the same. It was questioned, how far these words gave, in such cases, a jurisdiction to the Justices without appeal to the Court of Session. THE LORDS found that the act gave no such jurisdiction.

Fol. Dic. v. 3. p. 358. Fac. Col.

* * This case is No 81. p. 7347.