

No. 3. 1747, Dec. 2. BOOKSELLERS IN LONDON *against* THE BOOKSELLERS IN GLASGOW AND EDINBURGH.

TINWALD well observed, that the author of a book could have no better title at common law to the property or rather monopoly of his own labours and invention than the first inventor of printing or gunpowder had to the monopoly of that invention, and that this would be a *novus modus acquirendi domini*. Also observed, as I had done yesterday, that the East India Company could not have action of damages against importers of East India goods. Arniston spoke long and well, and many things new, but in order to hear him I was obliged to change my seat and could not take notes; but we unanimously found, first, that no action lies for offences against this statute more than three months after the offence; 2dly, that no action on the statute lies for books not entered in Stationers Hall as the act directs; and 3dly, that no action lies upon this statute for damages but only for the penalties; and June 7th 1748 adhered, and found that no action lies either upon or in consequence of the statute. *Vide* the judgment on appeal, MS. fol. (now printed) and the printed cases.

No. 4. 1749, Dec. 8. MAITLAND *against* FRASER.

ONE Edgar made a plan of Edinburgh, and after his death his sisters, who were nearest of kin, gave it to George Fraser, auditor of Excise, to get it by assistance of the master of Elphinston reduced to one foot, which was accordingly done. Some time after a creditor of the defunct confirmed the original plan, and had it sold by public roup by the Commissaries, and it was purchased by Maitland, who it was said had first devised the confirming it to make himself master of it, being then writing the History of Edinburgh, and to discourage bidders told publicly that several copies had been taken of it. He then pursued Fraser (who had sent his reduced copy to London to be engraven) to deliver that copy, and Minto the Ordinary ordered him before answer to produce it in the clerk's hands; but on a reclaiming bill and answers we remitted to the Ordinary to hear them on their several rights. I greatly doubted that he had any right in Fraser's reduced copy, for though if he had come unlawfully by the original and taken a copy, that unlawful act might subject him to damages; yet having got it from the nearest of kin to reduce, that was a lawful act, and the purchaser of the original plan had no more right than an inventor of a new-fashioned machine has right to every machine made on that pattern, or the owner of an original manuscript to every copy taken of it, and here he could plead no special privilege; 2dly, As by the act of Parliament nearest of kin getting possession need not confirm, and, as we have found, transmit their right to their executors, we doubted whether the confirmation gave any right after the nearest of kin attained possession.

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*LOCUS PŒNITENTIÆ.*

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No. 1. 1737, Nov. 2. KERR of Crummock *against* SKEDDEN.

A DECRET-ARBITRAL being pronounced between these parties determining former difficulties, and decerning L.5 sterling to be paid, which was said to be passed from verbally