

of working to all the lieges ; but only to hinder them to steal, as it were, the meat out of their neighbours' mouths in Edinburgh, by working within their freedom, or taking out and bringing in work there. The tailors of the Cannongate have privileges, for any burden they bear, in which the Edinburgh tailors do not offer to wrong them ; but it is certain that the tailors of the Cannongate are liable to no such burden of stent, watching, or warding, as those of Edinburgh are.

REPLIED for the Cannongate TAILORS,—They do not deny the town's power of granting seals of cause, with reasonable and ordinary clauses; but only controvert such as are extraordinary and exorbitant. The cited Act of Parliament is only against vagabond unfreemen, who fled from their masters in Edinburgh, and drew the work of the town to the suburbs, where they set up booths without being made free there : and to extend it against the Cannongate tailors, who have their own seal of cause, and particular freedom, were to besiege and shut them in from all employment.

The Lords found, that the seal of cause granted to the tailors of Edinburgh is an effectual restraint as to burgesses, and such as bear scot and lot there ; and assoiied them *quoad* these from the Cannongate tailors' declarator of immunity.

Thereafter, 27th November, 1708, the Lords found, that the said tailors of Edinburgh had no right to seize any work brought into the town, and made by the Cannongate tailors, belonging to strangers or others residing in Edinburgh, without bearing scot and lot.

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1708. *June 25.* WILLIAM BELL, Portioner of Ridpeth, *against* JAMES DUNLOP, Factor for MORISTOUN.

JAMES DUNLOP having subscribed a writ, declaring that William Bell had agreed with him for the purchase of Brotherstanes, belonging to the laird of Moristoun, and was to pay 4600 merks as the price at the terms therein mentioned, and to give Moristoun good security therefore; and that he Moristoun was to give to Bell a disposition with absolute warrandice. And Mr. Dunlop having afterwards signified by a letter to Mr. Bell, that he had reported to Moristoun and his friends the bargain himself had made with Bell, and they would not resile from his agreement; and therefore desired Mr. Bell and his son to hasten into Edinburgh, that the same might be perfected; and, Moristoun having sold the lands to Sir William Scott of Harden: Mr. Bell required James Dunlop to implement the bargain, under form of instrument, and pursued him for payment of L1000 of damages.

ALLEGED for the defender,—The foresaid declaration was only writ *memoriæ causa*; containing no obligation upon him to cause Moristoun dispoise, nor upon Bell to pay the price; and so is no contract, not being signed by Bell. And as such a writ could not oblige him to take the bargain, or make him liable for the price, neither could it tie Moristoun or his factor.

ANSWERED for the pursuer,—The declaration sufficiently instructed the tenor and conditions of the bargain, and so excluded *locum penitentiæ* allowed in ver-

bal agreements : consequently ought to be effectual to make the granter liable for the pursuer's damage sustained through not performance of the minute ; especially considering that he was ready to have performed his part.

The Lords found the declaration obligatory upon the defender to make up the pursuer's damage, through the not implement of the terms of the agreement prestable by Moristoun.

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1708. *June 30.* JOHN LIN, Chamberlain to the EARL of LEVEN, Supplicant.

JOHN LIN, factor appointed by the Lords upon the estate of Rankeillor, having represented by bill, that the roof of the mansion-house was ruinous and ready to fall ; which, if not repaired, would be a great prejudice, both to the creditors and common debtor, in case the lands were afterwards exposed to sale ; and that he had procured a declaration from skilful workmen, that had inspected the house, that it would cost L.333, 6s. 8d. Scots to keep up the roof : and craved their Lordships' warrant to him for employing workmen to make such reparations ; or else that they would declare him free of any culpable neglect, for suffering the house to decay and go to ruin :—

The Lords refused to interpose their authority, or to give any answer to the petition.

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1708. *July 1.* KATHARINE JOHNSTON, Relict of JOHN MONTGOMERY of Cri-voek, *against* the Representatives of PROVOST NAPIER.

JOHN MONTGOMERY having agreed to sell two shops in Glasgow to Provost Napier, wherein Katharine Johnston, the disponer's wife, stood infeft ; he brought her to a tavern upon a Saturday, at five o'clock in the afternoon, in order to get her consent. She, in respect her husband was to leave her and go to America upon the Monday following, expressed a reluctancy and unwillingness to sign the disposition : but, after some hours, she was prevailed with to do it, upon promise of one thousand merks laid upon the table ; which was immediately taken back again. Katharine Johnston twenty-four years thereafter, when her husband was dead, and herself married to a second, raised reduction of the foresaid disposition, against the representatives of Provost Napier, upon this ground,—that the disposition aforesaid was extorted from her by the frownings and other undue importunities of her first husband, without being read to her at signing, and she got not the one thousand merks promised her for her consent.

ALLEGED for the defenders,—The reason of reduction is not relevant. For I. Provost Napier was a person who abhorred an unfair purchase ; Mr. Montgomery, a mild gentleman ; and Katharine Johnston his wife, of a masculine dispo-