

No 316. committed to their care; *3tio*, The chargers submit the exorbitancy of the fine to the Lords modification.

Replied for the suspenders, The Town's right of repledging cannot prescribe but by contrary acts, where they, having occasion to use their right, were either debarred *in judicio contradictorio*, or acquiesced to a contrary practice for the space of 40 years. And the British statute, giving the same powers to the Justices of Peace in Scotland, as those in England have, must be understood with a *salvo*, as to private rights.

THE LORDS found, that the jurisdiction of the Justices of Peace, over the suspenders, is well founded by the acts of Parliament; and that there was no iniquity in sustaining the libel relevant to be proved by their oaths; and remitted to the Lord Ordinary, to modify the fines in the decret, with a particular regard to the circumstances of the offence and offenders.—See OATH OF PARTY.

Fol. Dic. v. 1. p. 508. Forbes, p. 581.

No 317. 1714. November 19. L. FULLARTON *against* Earl of KILMARNOCK.

THE LORDS found, that defenders, before the Justices of Peace, ought to have a competent time to answer, according as the exigency of the matter requires, and allowance of a procurator to compare.

Justices of Peace may summarily imprison, when the cause requires, till payment of the fine.

Fol. Dic. v. 1. p. 509. Dalrymple. Bruce.

* * * This case is No 219. p. 7500.

1741. June 23.
PROCURATOR-FISCAL of the Justice-of-Peace Court of Haddington *against*
FORREST and Others.

No 318. A process at the instance of the Procurator Fiscal of the Justices of the Peace of Haddington, before the said Justices, against several persons, concluding that they ought to be ordained to demolish their pigeon-houses, in respect they were not possessors of lands or teinds paying ten chalders of victual in terms of the act 19th Parliament 22. James VI. being brought before the Lords by advocacy, it was found, 'That the Justices had no jurisdiction in such a case as this was, ' where the pigeon-houses in question had been used as such for several years; ' and consequently that no action lay at the instance of their Procurator Fiscal.' But it seemed to be the opinion of the COURT, that a recent complaint against