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kins, as having wronged him in his good name, means and estate, and therefore craving reparation and punishment; and sought a diligence against the Commissioners of the Customs, as witnesses, to depone that Watkins brought them that false accusation against him: which being granted, Watkins presented a bill of advocation to the Lords, upon these reasons, that the Commissaries had committed iniquity in sustaining a scandal, where there was none; for the private delating of a person for a crime to his master, who had power to remove him from his service at his pleasure, can never be the ground of a process of slander, especially not being published nor spread abroad, but only told to the parties concerned in private; for what hinders a friend to acquaint me to be on my guard against such a servant, as dangerous and unfaithful. Shall this lay a foundation for the servant to pursue the informer for scandal, and lead the master as a witness to prove it? This would discourage all discoveries of malversation, and embolden either the public or private servants to be guilty of the highest misdemeanours; for, if any dare table an accusation against me, I shall immediately arraign them for defamation and scandal, and lead the masters as witnesses to get them punished, which is of the highest consequence to invite and embolden servants to malverse *impune*. *Answered*, The Lords are not judges to scandal and actions of injury *in prima instantia*; but only the Commissaries, who if they do wrong, the Lords can only rectify in a reduction and suspension; and Mr James the pursuer has no other design than to vindicate his honour against that malicious aspersion; neither doth he grudge his losing that lucrative post, as that he is refused to be employed in any other station so long as he lies under character of a disaffected person; and whatever inconveniency may be urged of emboldening bad servants, the danger lies greater on the other side, to discourage private and clandestine defamations, wherein a man's reputation is murdered under trust, and he knows not whence it comes. Such informers, sculking under the covert of secrecy, are the very firebrands and incendiaries of human society, and called by Tacitus, *delatores pessimum hominum genus*; and, by such hidden practices, the most innocent person may suffer.—THE LORDS considered that a scandal implied a public venting and spreading of the same, and that the informing the Commissioners of the Customs of one of their servants' misbehaviour could not make up a libel for scandal, and therefore remitted the cause back to the Commissaries as the most proper competent judges to such actions; but with this express direction and instruction, that such private information given was not relevant to found a process of scandal.

Fountainball, v. 2. p. 477.

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The editor of
a news-paper
fined for ex-

1733. July 3. M'EWAN *against* MAGISTRATES OF EDINBURGH.

THE author of the Edinburgh Evening Courant, in publishing the news of a mob that happened at the West Kirk, about settling a minister in that parish,

though they kept within the bounds of truth, yet dressed up the story in colours very disadvantageous to some of the magistrates of Edinburgh who were upon the spot attending the settlement, insinuating several sharp reflections against them. Among others, several queries were adjected, such as 'it is submitted to the judgement of mankind if there was much more order, caution, and discretion observed by those who took upon them to compose the tumult, than even by the mob itself. And it may be justly queried, whether the ordering out the city-guard, without the bounds of the city, to act a part in this affair, and whether imprisoning Fleucher the beadle were legal? whether the town-guard firing, killing, and wounding so many persons, without reading the proclamation, as the law directs, be not a great crime? and whether the captain of guard's beating Mr M'Vicar's children and servants was not a manifest riot, if not hamesucken?' This matter having been brought before the Lords in the shape of a reduction of an inferior decret, in which the news-writer had been fined in L. 10 Sterling; it was *pleaded* for him, That news-writers, by inveterate customs, are tolerated to publish historical accounts of transactions foreign and domestick, whether reflecting honour or reproach upon the actors. *Answered*, Libels of scandal are prohibited in whatever shape they come out; the above paragraph is not in the spirit of a cool news-writer, but bears evident marks of rancour and resentment; and supposing the magistrates to have been in the wrong, the parties injured, or those employed by them, ought not to inflict punishments at their own hands, while there are laws in being, by which they may be redressed. For this reason it is that *veritas convicii non excusat*. THE LORDS assoilzied from the reduction.

Fol. Dic. v. 1. p. 233.

1752. February 29. ELIZABETH SYMMOND *against* JEAN WILLIAMSON.

CERTAIN Port-Glasgow ladies and gentlemen, having, after the example of their betters, convened in the house of John Allason baker, for a dance; the conversation happened to turn upon the said Elizabeth Symmond, who was not present; and Allason having dropped certain expressions that gave Mrs Scott ground to think, that he thought said Elizabeth handsomer than her, Mrs Scott thereupon said, Did he compare Symmond to her? and fell into a passion, and gave her very opprobrious names, saying, that (Fleeming) her father had been a footman, and that her mother had kept a bawdy-house, and that if she did not cuckold her husband, it was not her fault, &c.

But, upon Allason's saying, that he would report this to Mr Fleeming, Mrs Scott said she blamed him, for he had put her in a passion; and added, what she had said of Mrs Fleeming was all lies, and that she had no ground for saying it; and, in a few days thereafter, she was also heard to repent of her having

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pressions injurious to magistrates, relative to their conduct in suppressing a riot.

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Defamatory expressions immediately repented of, slightly punished.