

LITERARY PROPERTY.

1738. *June 30.*

KING'S COLLEGE of OLD ABERDEEN *against* The MARICHAH COLLEGE.

No. 1.

The Lords found that the King's College of Old Aberdeen have right to have the books contained in the grant in the act 1710, (8vo. Annæ, for encouragement of learning, &c.) lodged in the public library for the use of the members of both Colleges.

1746. *July 4.*

BOOKSELLERS of LONDON *against* The BOOKSELLERS of EDINBURGH and GLASGOW.

No. 2.

THE reprinting without the proprietor's consent books entered in Stationer's Hall, being by the act 8th Annæ, c. 19. prohibited under certain high penalties, and the importing books reprinted abroad that had been printed here, by an act 12th George II. the pursuer wanted to have the defenders' oath to prove their contravening these statutes, which he could not have without waving the penalties, therefore he waved them and insisted for damages, and the Lords found that no action of damages lay on either of these statutes. The President thought that the pursuers could not wave the penalties of the act 12th George II. and therefore could have no action of damages even on the act 8th Annæ, upon the transgression that might fall under the last act, but that he might have an action of damages, and the defenders' oaths on other things that fell not under the last act.

1747. *December 2.*

BOOKSELLERS in LONDON *against* The BOOKSELLERS in GLASGOW and
EDINBURGH.

No. 3.

A PROCESS was brought at the instance of certain booksellers in London against some booksellers in Edinburgh and Glasgow, upon the act 8th Annæ, cap. 19. and 12 Geo. II. for reprinting or importing and vending books to which the pursuers had the sole right, and concluding for the penalties in these statutes and damages; but foreseeing the difficulties of carrying through their claim for the penalties, and particularly the impossibility of proof, they waved the penalties and insisted only for damages, or rather the profits the defenders had made, and that they should give in an account upon oath. At first on my report, 4th July 1746, we found that action of damages does not lie on these statutes, but 34th December 1746 we altered and found that action of damages does lie to the extent of the profits made as to books printed here, on the act 8th Annæ; but we demurred as to books imported, on the act 12th Geo. II. because the penalties are not limited in that act to any time, and therefore we doubted whether the pursuers could wave these penalties. But upon a hearing in presence, we found that the general act of limitations 21st Elizabeth, was sufficient even in Scotland to limit the action for these penalties, (contrary to what we decided in 1737 on the Game Act,) and therefore found the action of damages competent as to these also: But upon reclaiming bill and answers, 2d December 1747, we unanimously found *1mo*, That no action lies for offences against the statute 8vo Annæ, after three months from and after the offence; *2do*, That no action on that statute lies for books not entered in Stationer's Hall; and *3tio*, That no action upon that statute lies for damages, but only for the penalties mentioned in the statute. Upon appeal, the House of Peers pronounced this judgment 11th February 1751: " That the action brought by the appellants in the Court of Session was " improperly and inconsistently brought, by demanding at the same time " a discovery and account of the profits of the books in question, and also " the penalties of the acts of Parliament, which the appellants have never " absolutely waved in the proceedings below, and also by joining several " pursuers claiming distinct and independent rights in different books in " the same action, and that therefore the points determined by the said " interlocutors could not regularly come in question in this cause; and " therefore ordered and adjudged that the several interlocutors be re-

“ versed, without prejudice to the determination of any of the said points
 “ when the same shall be properly brought in judgment ; and it is hereby
 “ also declared that the libel in this cause is *non relevant*, and therefore
 “ that the said Court of Session do proceed accordingly.” *Vide* the printed
 cases, especially that for the appellants.—*N. B.* It was written from Lon-
 don, that it was the opinion of the House, (or seemed to be,) that a suit,
 if properly brought, lies for profits within the term granted by the statute,
 but not after that term. (See *DICT.* No. 1. p. 8295.)

No. 3.

1749. December 8.

MAITLAND *against* FRASER.

WHETHER a person coming lawfully by the possession of a map or any
 other drawings, and taking a copy of it, can afterwards be sued by one
 becoming proprietor of the original to deliver that copy?—Argued, but not
 decided ; but remitted back to the Lord Ordinary.

No. 4.

See NOTES.