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bitant, they were more prejudged; and the Sheriff was bound to answer; for this was a judicial act, in all which they are subject to the Lords' review; neither had they followed the practice of this and other shires, to set them on the report of an inquest, but had done it *brevi manu* to gratify the heritors. THE LORDS, without determining either the title or competency, allowed the Sheriffs to answer and vindicate themselves if they can.

Fountainhall, v. 2. p. 739.

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1725. *December.* LEWARS *against* EARL of HADDINGTON and his Deputes.

IN a reduction of the fiars of East Lothian, *imo*, Because of their exorbitancy; *2do*, Because not struck by a jury impannelled according to the prescription of the act of sederunt 21st December 1723, it was objected, there is no reduction competent in the nature of the thing of Sheriff fiars, which are nothing else, but a return made by the Sheriff, as the King's officer, into the King's court of Exchequer, of what he finds to be the reasonable price of grain for that year, which is not matter of jurisdiction at all to be subject to the review of a superior court. THE LORDS, notwithstanding, found this matter subject to a review, and sustained themselves judges. *See APPENDIX.*

Fol. Dic. v. 1. p. 500.

S E C T. X.

Jurisdiction of the Court of Session, in reviewing the procedure of Ecclesiastical Courts.

1768. *February 6.*

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A minister pursued the heritors for payment of his stipend, who produced an extract of the sentence of his deposition by the presbytery, under the hands of

DAVID DICKSON of Kilbucho *against* The HERITORS of the Parish of Newlands.

MR DICKSON had for many years been settled minister of the parish of Newlands; but, in April 1767, the presbytery of Peebles, upon an action which had been brought before them, accusing Mr Dickson of sundry irregularities, pronounced a sentence, deposing him from the office of the ministry; and the Heritors of the parish having refused to pay Mr Dickson his stipend, in regard of the above mentioned sentence of deposition, and that another minister had been presented to the kirk by the patron, Mr Dickson charged the Heritors with horning, which charge they suspended.

The question came before Lord Stonefield as Ordinary, when it was *pleaded* for the charger, That the sentence of deposition, said to be pronounced by the presbytery was void and null, in terms of the act of Parliament 1686, cap. 3. and sundry acts of assembly, not having been signed by the moderator, or any of the members of the presbytery; and farther, that the proceedings upon which the sentence is said to be founded, were so irregular and informal, that no faith whatever could be given to them, or effect to the decree pronounced upon them.

Answered for the suspenders; The act of Parliament 1686 relates only to civil, but not to ecclesiastical judicatories; that it was not the practice of church-judicatories to sign their sentences; and, as an extract of the sentence of deposition under the hand of the presbytery-clerk had been produced, the suspenders were not in safety to pay to the charger. And it was further *argued*, That it was not competent for the civil court to look into the proceedings of the ecclesiastical court, as an extract of the sentence was produced.

THE LORD ORDINARY, before answer, allowed a proof as to the practice of the presbytery of Peebles in signing their minutes and proceedings; and a proof being led, and reported, his Lordship ordered memorials to the Court; upon advising of which, the following judgment was pronounced.

“ On report of Lord Stonefield, and in respect there is no proper evidence produced of the charger Mr Dickson’s being deposed, the LORDS find the letters orderly proceeded, and decern.”

For the Charger, *Al. Elphinston.* For the Suspenders, *Al. Wight.* Clerk, ———.
A. E. *Eol. Dic. v. 3. p. 346.* *Fac. Col. No 73. p. 128.*

1780. August 11.

THOMAS ROBERTSON *against* ROBERT PRESTON, GEORGE CAMPBELL, and
 ALEXANDER MELVIL.

THE Reverend Messrs Preston and Campbell, ministers, and Mr Melvil, one of the elders, of the parish of Cupar, in their capacity of members of the kirk-session, had resolved that, on account of certain alleged immoralities, Mr Robertson ought not to be admitted to participate of the sacrament of the Lord’s Supper; and had ingrossed this resolution in their records. On that ground, Mr Robertson brought against them an action of defamation before the Commissary of St Andrew’s, concluding for a palinode, and for damages. In a process of advocacy which followed, it was

Pleaded for the defenders; That being an ecclesiastical court, they were not subordinate to any civil one, but to their ecclesiastical superiors alone; and that even supposing their proceeding to have been improper, yet having acted

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 their clerk.
 The Lords found, that the extract was not proper evidence of the deposition, and decerned for the stipend.

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 The civil courts have no jurisdiction in matters of ecclesiastical concern.