

1802. *March 2.*ROBERTSON and Others, *against* CAMPBELL and PILLANS.

## No. 3.

A printing-house occupying one of the floors of a tenement in Edinburgh, is a nuisance.

JAMES CAMPBELL, writer to the Signet, purchased a floor of a tenement in the Old Assembly Close, in the High Street of Edinburgh. This house was let to James Pillans, printer, who used it as a printing-house, and erected several printing presses for the purposes of his trade. The proprietors of the other floors of the tenement, conceived that their property was injured, and that they had a right to have the printing-house removed as a nuisance. For this purpose, they applied in the usual form of suspension and interdict; and the Lord Ordinary ordered the case to be stated to the Court in memorials.

Their Lordships (24th January 1801) found the letters orderly proceeded, and removed the interdict. But upon advising a reclaiming petition, with answers, they (2d December) by a narrow majority, altered their interlocutor, suspended the letters *simpliciter*, and ordained the interdict to be perpetual.

A petition against this interlocutor, upon being advised with answers, was refused, and the printing-house ordered to be removed as a nuisance.

But it appeared from the observations of the Bench, that some of the Judges were moved by certain specialties in the case, upon which the argument for the pursuer was partly founded.

Lord Ordinary, *Cullen.* Act. *Turnbull.* Agent, *Geo. Andrew.* Alt. *Erskine.*  
Agent, *Ja. Campbell, W. S.* Clerk, *Menzies.*

J.

*Fac. Coll. No. 30. p. 61.*

## No. 4.

A Smith's shop in a thatched house, and in the neighbourhood of thatched houses in Lanark, found to be a nuisance.

1805. *July 2.* VARY *against* THOMSON and Another.

THIS was an action brought by Richard Vary, provost of Lanark, and Sheriff-clerk of the county, against Chancellor Thomson, the proprietor, and Mungo Aitken, the occupier, of a tenement in Lanark, which it was proposed to convert into a smithy, and which Vary contended he was entitled to prevent, as being dangerous in the situation in which it was placed, and a nuisance to his house and garden, in the immediate vicinity, besides being attended with

some hazard to the public records of the county, which were lodged in his house. No. 4.

He presented a petition to the Dean of Guild of the burgh, stating, ‘ that  
 ‘ Chancellor Thomson, wright in Lanark, who is a proprietor of some houses  
 ‘ and a garden, adjoining to the petitioner’s property, in the Bloomsgate Street  
 ‘ of Lanark, has set a vacant space of ground immediately adjoining to the pe-  
 ‘ titioner’s garden, to Mungo Aitken, smith in Lanark, for the purpose of  
 ‘ erecting a smithy : That, independent of the nuisance occasioned by the  
 ‘ smoke of this intended smithy, whereby every thing in the petitioner’s garden  
 ‘ will be blackened and rendered useless, the same will be situated adjoining  
 ‘ to some low thatched houses, which will be in continual danger of taking  
 ‘ fire, from the sparks commonly issuing from a smithy vent. And besides all  
 ‘ this, the petitioner’s office as Sheriff-clerk, where the public records are de-  
 ‘ posited, is only at a few yards distance from the intended situation of the  
 ‘ smithy, and he must necessarily be exposed to constant alarm from the dan-  
 ‘ ger of fire.’

Upon advising this petition, with answers, the Dean of Guild found, ‘ That  
 ‘ the erection of a smithy among a number of low thatched houses, and in a  
 ‘ confined close, would not only endanger public property, but would also be  
 ‘ a nuisance to the public ; and that the same would be very dangerous to the  
 ‘ petitioner, holding the public records of the county, and, as an individual,  
 ‘ would render his garden useless ;’ and granted an interdict to prevent the de-  
 fenders from using the house as a smithy.

The defenders complained by advocacy of this judgment, but the Lord Ordinary repelled the reasons of advocacy, and remitted the cause *simpliciter*.

A petition was presented to the Court by the defenders, in which it was contended, that a smithy had never hitherto been considered as a nuisance ; that nothing was more common all over Scotland, than smithies in the neighbourhood of thatched houses ; that no danger ever was found to result from it ; and that as it was absolutely necessary that there should be smithies in every town, for the convenience of the inhabitants, no individual was entitled to complain when one happened to be erected in his neighbourhood.

The Court was much divided in opinion, but (26th February 1805,) adhered to the Lord Ordinary’s interlocutor ; and afterward adhered, upon advising a reclaiming petition, with answers.

Lord Ordinary, *Hermann.*

Alt. *Dickson.*

Act. *Colquhoun.*

Agent, *C. Bremner, W. S.*

Agent, *Alex. Young, W. S.*

Clerk, *Mackenzie.*

*J.*

*Fac. Coll. No. 217, p. 491.*