

1803. *January 19.* SKIRVING and Another, *against* SMELLIE and Another.

No. 12.

PRESCRIPTION sustained as a sufficient title to the exclusive privileges of an incorporated trade.

\* \* This case is No. 163. p. 10921. *voce* PRESCRIPTION.

1803. *February 17.* CAMPBELL *against* LINDSAY.

No. 13.

By the 4th clause of an act of Council of the Magistrates of Edinburgh, (29th June 1785) "it is enacted, That the houses in the two streets, to be called Thistle Street and Rose Street, shall not exceed two stories, exclusive of the sunk and garret story; and that no floor shall exceed eleven feet in height, including the joisting and floor, at least that the whole side of the side-wall from the floor of the sunk story shall not exceed thirty-three feet." To secure the observance of the various regulations contained in the act, it was provided, "That no proposal for a feu be agreed to, unless it contains a reference to this act, and an obligation on the proposer to observe and fulfil the articles before enumerated; and that every such proposal shall be written on a paper to be annexed to a printed copy thereof."

The regulations of the act of Council 1785, relative to the buildings in Edinburgh, are not abrogated by a contrary practice, and may be enforced at the instance of an individual whose property is affected by their disuse.

The Honourable Robert Lindsay of Leuchars purchased an area in Rose Street, for the purpose of building a coach-house and stables on the back part of it; and for the front to Rose Street, he obtained a plan and elevation of a house similar to most of those, in the same situation. On application to the Magistrates, their overseer inspected the plan, and gave his opinion, that it was agreeable to the act of Council, when the Magistrates in Council assembled, gave their approbation to the plan, and granted Mr. Lindsay (9th April 1800) right to the area by charter, and he proceeded to build upon it, in conformity to the plan.

Archibald Campbell of Clathick, proprietor of two houses in George Street, opposite to the house in Rose Street, conceiving himself injured by the building, which contained sunk apartments, exclusive of which and the garrets, there were three entire stories to the front, and four to the back, the first entering by a flight of a few steps from the street, complained to the Dean of Guild, and craved an interdict against building to so great a height.

The interdict was at first granted, (7th December 1802) and afterward the Dean of Guild, (10th) "In respect the building complained of is in conformity to the elevation approved of by the Town-Council, and similar in height and otherwise to buildings in the same street, recalls the interdict."