

and craving the Lords to authorise their clerks to send up these principal depositions of the witnesses to London for verifying his appeal :

The Lords delayed giving any such order, till they saw a warrant from the House of Peers to that effect.

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1708. *February 28.* ANDREW SHIELS *against* GEORGE YOUNG.

ANDREW Shiels, writer, gave in a complaint against George Young, merchant, his uncle, that there being several processes depending betwixt them, and he coming to the said George his house on the 9th February last, he assaulted and invaded him, by thrusting and beating him on the breast, and throwing him over a chair; whereby he had incurred the penalty of the 219th Act 1594, of losing the plea.

ANSWERED,—The Act never meant such a frivolous scuffle as this, where there was no bloodshed; but only speaks of such invasions as might be the ground of a criminal pursuit, which this could never be.

The Lords, having advised the probation, found, That he, after many reproachful words, took him by the breast, with a design to thrust him out of his house, and, in beating him, threw him over a chair; that his heels were higher than his head; and considered, that the throwing a dish or glass at the party's face, when they had depending processes, was enough, in the terms of the foresaid Act of Parliament, to make them lose the cause; and that the law was most necessary to bridle the *præferendum Scotorum ingenium*; and therefore found Mr Young's beating in the terms of the Act of Parliament; and declared he had lost the plea.

Young represented, by a bill, that it was a downright plot and contrivance of Shiels to ensnare him. He first buys in a debt of his, and steals out an act of warding against him; and, because it cannot be executed within doors, he falls upon a trick to draw him out, by sending a boy to him, desiring he would come to John Reid, his agent, who waited for him at the close-head; which he believing, came out, and behold Shiels and his messenger instantly seize him, and threaten to carry him to prison. He, discovering the trepan, desired them to go down with them to his house, and he would satisfy them, either with money or security. And accordingly Shiels and all go down; and Shiels gave him most provoking language in his own house, which is a man's sanctuary; and all contrived to ensnare him: Whereupon he only took him by the breast, to shut him out of his house; and if he wilfully fell, he was noway the occasion of it, but was done of purpose; *et dolus suus nemini debet prodesse*, but, on the contrary, he ought to be fined in a considerable sum for this trick, and the same given to Mr Young for his damage, in personating Mr Reid, his friend and agent; and so training him into the gin.

The Lords thought Shiels's management not very cleanly; but he denying it, they superseded to give answer till June; but adhered to the interlocutor against Young, anent the tinsel of the depending cause, for a preparative and warning to others to abstain from violence in carrying on their law processes against their antagonist in the cause.

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