

1744. *July 31.*OGILVIE *against* ———.

No. 21.

THOUGH by the act 1698, Edinburgh buildings are restricted to five storeys above the causeway in the side walls, and, by the received interpretation of that law, they may have fire rooms in the garrets above those five storeys, yet in the building at the head of the Old Provost's Close, they being forced to place their chimneys in the side wall, which fronts to the street, because there was no place for them in the gables, and having carried up these chimneys in the form of three little gables, with a window in each little gable on each side of the chimney, which made the appearance of a sixth storey, yet that storey was all within the roof and no garret above it; and therefore the Lords refused to stop or suspend that building, or to cause take down these little gables, which were less dangerous than single stalks of chimneys would have been. And though we have found that the word "causeway" in that act, not only means the High Street, but also the several vennels from the street to the Cowgate, as was found in the Assembly Close, and in Libberton's Wynd; yet the Old Provost's Close, which is shut up at the foot being so steep, that to observe the law there, a breach must have been made in the roof at every room in the house, therefore in the back part, to bring it to a level with the fore part, it was seven storeys; yet the Lords refused also to suspend that.

1745. *July 31.*

ELECTION OF INVERKEITHING.

No. 22.

THE old Deacons having been kept from the election by force, for which purpose a warrant had been obtained from two Justices of Peace, the Lords found that the old Deacons had a right to be in the Council, at least till the new Deacons were admitted; and afterwards found that they had a right to join in the election of the new Councillors, (after which only the new Deacons ought to be admitted;) and they not only reduced the defender's election, which they would have done whatever side the majority had been of, but they also counted their votes, and therefore sustained the pursuer's election. They also found that Grass Freemen, (as they were called,) *i. e.* Honorary Freemen, had no right to vote in the election of Deacons of Crafts, and that by the set of this Burgh Councillors behoved to be residing Burgesses.—N. B. All the Councillors here are for life.