

No 29. to be avoided from the exorbitant height of the buildings, is as great in the avenues to the town as in the town itself, the same rule ought equally to apply to both. Indeed the use of the word 'suburbs,' which is of an indefinite import, including whatever buildings, in the gradual enlargement of the town, may fall under that description, would be enough to show this to have been the intention of the legislature. As to the mention which is made of the Dean of Guild, this was only intended to press the observance of the law on that Magistrate, who, from the nature of his office, would have must occasion to attend to it, and cannot be thought to exclude the interposition of the Judge Ordinary in those cases where the Dean of Guild from a limitation of his judicial authority is prevented from interfering.

It was also *pleaded* by the defenders, That the buildings erected by them were not prohibited by the enactment, as they consisted only of five stories, what was called a sixth being no more than a French roof, including a tympany in the centre of the building.

The Sheriff Depute "repelled the declinature; and found, that the building in question was one story higher than it ought to be, and ordered the same to be reduced to five stories."

A bill of advocation was preferred by Thomas Dott and Alexander Paterson, which being followed with answers, replies, and duplies, was reported by the Court.

THE LORDS remitted to the Lord Ordinary to refuse the bill.

Reporter, *Lord Hailes.* Ac. *Solicitor-General.* Alt. *Dean of Faculty.*

*C.* *Fol. Dic. v. 4. p. 198.* *Fac. Col. No 74. p. 134.*

No 30.

1794. *May.* PALMER and Others *against* MACMILLAN.

MACMILLAN a butcher, having a house in Chapel Street in the south suburbs of Edinburgh, which had an area about nine feet wide in front, divided from the street by a parapet wall, and likewise a small area behind, was in use to slaughter cattle in the back area, and expose the butcher-meat for sale in the front area; both which practices were complained of as nuisances by the neighbourhood. In an advocation from the Sheriff, who decerned in both articles against the defender, the LORDS found, that the slaughtering cattle in the back area was a public nuisance, and that the defender had no right to practise it; but that he was entitled to expose his meat for sale in the front area, provided he erected a shed over the place on which it was hung, and paved the area with stones. See APPENDIX.

*Fol. Dic. v. 4. p. 199.*