

June 20, 1827. mitted that sasine was given of lands, (whether Coblehouse or not,) the name of which began with 'Coble.' In short, this instrument narrates most minutely the terms of the crown-charter, specifying the particular lands comprehended in lot I. of the estate of Netherdale; it describes the import of the conveyance, in favour of the appellant, of all the lands contained in that first lot; it distinctly records, that sasine was given to the appellant in them; and it certifies, that everything was done in precise conformity to the warrants. Let the respondent read 'Cobleton,' or 'Coblecroft,' still that would have been held a clerical error, unworthy of observation.

The House of Lords ordered and adjudged, that the appeal be dismissed, and the interlocutor complained of affirmed.

Appellant's Authorities.—Boyd, Feb. 23, 1822. (1 Shaw and Ball, No. 395.) Napier, June 25, 1822. (1 Shaw and Ball, No. 571.) Denniston, July 7, 1822. (2 Shaw and Dunlop, No. 164.)

No. 57.

CHARLES CRAIGIE, Appellant.
J. MILL, Respondent.

Jurisdiction—Suspension—Statutes 4 Geo. IV. c. 26. and 25 Geo. III. c. 51.—

A party, who was the owner of a hackney-coach, having been convicted under the above statutes, relative to the post-horse duties, by a Justice of the Peace, and it being provided that any party aggrieved 'shall and may, upon finding security for the penalties and costs, appeal to the Justices of the Peace at the next quarter sessions,' and the party having, instead of so appealing, presented a bill of suspension to the Court of Session, on alleged informalities, and excess of jurisdiction, Held *ex parte* (affirming the judgment of the Court of Session,) that the bill was incompetent.

June 25, 1827.

1ST DIVISION
Bill Chamber.
Lord Eldin.

By the 4th of Geo. IV. c. 26, relative to the post-horse duties, it is enacted, that 'every person letting for hire, or using any horse, mare, &c., for drawing any such coaches or other carriages, to be used as hackney-coaches, any distance not exceeding five miles from the general post-office of any city,' &c., shall pay a duty of 5s. per week, if the coach be drawn by two horses. And it is also provided, 'that the person or persons letting for hire, or using any horse, mare, or gelding, for drawing any such coach or carriage, as, or in the nature of, a hackney-coach, shall take out a license expressly authorizing him, her, or them, so to do.' The 25th Geo. III. c. 51, had already enacted, that it 'shall and may be lawful to and for any Jus-

‘ tice of the Peace, residing near the place where the offence June 25, 1827.
 ‘ shall be committed, to hear and determine any offence against
 ‘ this act,’ and to subject the defenders to certain punishments
 described; but it is declared, that ‘ if any person or persons
 ‘ shall find himself, herself, or themselves aggrieved by the
 ‘ judgment or sentence of any such Justice, then he, she, or they
 ‘ shall or may, upon finding security for the penalties and costs,
 ‘ appeal to the Justices of Peace at the next general quarter
 ‘ sessions for the county;’ and the statute 4th Geo. IV. c. 26,
 declares, that ‘ no such proceeding so to be had or taken, shall
 ‘ be quashed or vacated for want of form, or removed by certi-
 ‘ orari, &c., nor shall any such proceeding before such Justice
 ‘ be taken or removed by certiorari, suspension, advocacion, or
 ‘ reduction, or by any other writ, process, or proceeding, into
 ‘ the Court of Session, Court of Exchequer, or Court of Jus-
 ‘ ticiary in Scotland, any law or statute to the contrary not-
 ‘ withstanding.’

Mill, farmer of the post-horse duties in Scotland, filed an information before a Justice of Peace against George Craigie of Edinburgh, hackney-coach hirer, for breach of the 4th Geo. IV., by letting for hire two horses, without having a license. Craigie had a son also a coach-hirer, of the same name, and the messenger cited the defender as ‘ George Craigie, senior.’ Craigie appeared on the day of citation, but the diet being adjourned, he was cited to a new day, and another adjournment having taken place, a fresh citation was given, to which he appeared, was convicted, and found liable in the modified statutory penalty. He presented a bill of suspension, and maintained that the bill was competent, in respect of the Justices having exceeded their powers;—1st, Because the description, ‘ senior,’ (under which he had been cited,) was not in the information;—2d, Because one warrant could not support citations to three different diets; and 3d, Because he was driver of a hackney-coach, and hackney-coaches were under the regulation of the police statute of Edinburgh; and the post-horse duty statutes declare, that nothing contained in them shall be construed to extend ‘ to coaches or carriages which are or hereaf-
 ‘ ter may be subject to the provisions contained in any local act
 ‘ or acts of Parliament.’ The Lord Ordinary, ‘ in respect of the
 ‘ plea of the suspender, that the sentence complained of exceed-
 ‘ ed the power of the Justice, and that no satisfactory answer
 ‘ had been made to that plea, passed the bill upon caution.’
 But the Court, on the 11th February 1826, altered and remit-

June 25, 1827. ted to refuse it as incompetent, in respect the suspender had not appealed to the quarter sessions.*

Craigie appealed. Mill made no appearance.

The House of Lords (per the Lord Chief Baron,) ordered and adjudged that the interlocutor complained of be affirmed.

Appellant's Authorities.—Cook, May 17, 1823.—(2 Shaw and Dunlop, No. 295.)—Campbell, June 28, 1823.—(2 Shaw and Dunlop, No. 418.)

No. 58. HIS MAJESTY'S ADVOCATE GENERAL FOR SCOTLAND, ex relatione of GEORGE FORESTER and Others, Plaintiff in Error.—*Sir C. Wetherell—Miller.*

EARL OF HOPETOUN and Others, Defendants in Error.—*Shadwell—Adam.*

Et e Contra.

Statute—Privilege.—Found (affirming the judgment of the Court of Exchequer,) that the lead and ore raised from the mines of Waterhead, &c., belonging to the Earl of Hopetoun, are only liable in the valorem duties of ten shillings and of L. 1, for every L. 100 exported in terms of the statutes imposing the same, but are exempt from all other duties.

June 26, 1827.

EXCHEQUER.

THE question in which this writ of error was taken, involved the right of the Earl of Hopetoun, and the lessees of his lead mines of Waterhead, &c., in Scotland, to export the lead thence obtained duty free, in consequence of certain exemptions from duty granted and enjoyed before the union of England and Scotland, and alleged to have been specially preserved by the treaty of Union, and by subsequent Acts of Parliament of the United Kingdom, imposing duties on lead exported.

In order to try the point, ten parcels of lead were tendered at Leith for exportation, without payment of any duty. These were severally seized by an officer of customs as forfeited; for non-payment of the duties imposed by certain statutes, and an information was exhibited in the Court of Exchequer in Scotland, for condemnation. To this information the defenders pleaded the general issue, that the said goods were not shipped

* See 4 Shaw and Dunlop, No. 296.