

No 203. It was *replied*, That inferior judges were not at freedom to oppress the lieges, by repelling obvious and plain defences, but were punishable for such oppressive sentences, by 45th act, Ja. I. ; 76th act, Parl. 14. Ja. II. ; act 26th, James III. &c. And as to the particular answers it was *replied*, That what the Magistrates had fined Greig for, was not properly a crime, but simply a transgression of order, for which the transgressor was only liable to a civil fine, and the marriage was celebrated at Edinburgh ; that the Magistrates of Haddington were not proper judges of the powers of the Justices of Peace ; and that the 12th act 1695, gives the Justices a power to judge of questions of this nature, because the execution of that act is committed to such ministers of the law, who were by the 22d act 1693 ordered to assist in settling the quiet of the church, which extends to all officers of justice.

THE LORDS sustained the reasons of reduction against the decret of the Magistrates of Haddington, but refused expenses.

Act. H. Dalrymple.

Alt. Ro. Craigie.

Clerk, Murray.

Edgar, p. 167.

SECT. II.

To what extent Inferior Judges can Fine.

1612. *January 10.* BAILIE *against* LORD TORPHICHAN.

No 204.

It was found, that a Baron could fine to the extent of L. 50.

IN an action of spulzie pursued by John Bailie of Braidshaw *contra* my Lord Torphichan, for spulziation of a horse pertaining to the said John, which was in the possession of James Bailie his brother, the LORDS found, That it is lawful to a Baron or his Bailie to take any person that commits riot, blood, or oppression upon any of his tenants, by himself, without warrant from the Lords or Council, at any time before his going forth of the barony, and thereafter assoilzied my Lord frae the said spulziation of the horse, and profits claimed ; because it was lawful to take the said James Bailie, who, four days before, had pursued a tenant of my Lord's, and stricken him through the body with a lance with his horse.

Item, in the same cause it was found, That a Baron could impone an unlaw of L. 50.

Fol. Dic. v. 1. p. 501. Kerse, MS. fol. 170.

* * * See Nicolson and Haddington's reports of this case, No 16. p. 4797.
vide FORUM COMPETENS.