

1757. July 6.

HUNTER *against* AITKEN.

No 23.

A person punished for a riot, though in recovering a continued possession.

AITKEN had, for some years, possessed a seat in the church of Aberdour. Hunter, apprehending he had a preferable right to that seat, sent a peremptory message to Aitken, that he would next Sunday take possession of it; and accordingly took his place a little before Aitken came to church. Aitken arriving, desired him to come out; and, upon his refusal, gave him names, and seized him by the collar. At this time public worship was begun by singing psalms, and the congregation was disturbed. Hunter, after some struggle, left the seat, but brought an action against Aitken for the riot.

'THE LORDS imposed a fine of L. 2 Sterling upon Aitken for the riot, payable to the poor of the parish; but, in respect Hunter had endeavoured by his own authority to invert a continued possession, they found no expenses due.'

Act. Wedderburn, Wa. Stewart.

Alt. And. Pringle.

Clerk, Home.

W. J.

Fol. Dic. v. 3. p. 178. Fac. Col. No 37. p. 61.

S E C T. XI

Injuries to Judges in Office.

1738. June 3. EDWARD *against* SIR JOHN DALRYMPLE and Others.

No 24.

Justices of Peace may *de plano* punish indignities against them in their official capacity, but not such as are merely personal.

AFTER a meeting of the justices of the peace was over, and when the gentlemen were about to take horse, the woman of the house where they met, used some of them very roughly by most injurious language, whereon the justices returned into the house, proceeded against her *de plano*, and sent her directly to goal.

In a suspension and reduction of this decree, containing a conclusion of damages, the decree was affirmed, and the defenders assolizied on this ground, That the expressions were not merely personal to the gentlemen, but to them as in the office of justices of the peace, which was thought very different from what the case might have been, had they been only personal; in which case it would not have been competent *jus sibi dicere*.

Fol. Dic. v. 3. p. 178. Kilkerran, (DELINQUENCY) No 1. p. 155.