

No. 13.

Whether a summary complaint be competent against the clerks of inferior courts for malversation?

1751. *February.*

ANGUS, Complainer.

Archibald Angus, merchant in Edinburgh, had pursued certain persons, his debtors, before the Admiral-Court at Borrowstounness, who, after acknowledging the debt upon oath, consigned the same in the hands of the Clerk of Court.

A summary complaint was exhibited by Mr. Angus against John Ferrier, writer in Linlithgow, the clerk, for having, for a twelve-month, concealed his having the money; and, when afterwards desired by Angus to give it up, pretending, that after so long a time, he could not say how much was of it, and, after recollection, falsely alledging that he had paid it to Mr. Angus's clerk.

This summary complaint was admitted by the Lords, and Ferrier appointed to answer; which he did, without objecting to the competency.

The Lords, some time ago, admitted a summary complaint against the Baron Bailie of Calder, for oppression committed by him as a Judge.

Fol. Dic. v. 4. 310. Kilkerran, No. 4. p. 526.

No. 14.

1752. *February 21.*

FORREST, Complainer.

Nicol, a tailor, served Marion Forrest with a lawburrows, and charged her to find caution, which accordingly she found. Nicol however proceeded; and, obtaining a caption, incarcerated her. She applied to the Lords by summary complaint, setting forth, That she had intimated her having found caution, and made requisition of her liberty to the keeper of the prison, which had been disregarded; and therefore craving she might be set at liberty, and the charger found liable in damages. The Lords refused the desire of the petition, leaving her to present a bill of suspension of the charge on her obedience to it in finding caution, which bill would pass without caution.

Fol. Dic. v. 4. p. 310. Kilkerran.

* * * This case is No. 38. p. 8041. *voce* LAWBURROWS.

No. 15.

1754. *February 28.* GLASS *against* MAGISTRATES OF ST. ANDREW'S.

An election for filling up vacancies in the Council of a borough made at an ordinary meeting of the Council, cannot be tried by a summary complaint to the Court of Session upon act 16. Geo. II. Cap. 11. as that privilege is confined alone to general annual elections.

Fol. Dic. v. 4. p. 309. Fac. Coll.

* * * This case is No. 21. p. 1875. *voce* BURGH ROYAL.