

1760. February 23. MR. ADAM ROSE, Petitioner.

A petition was presented to the Court by Mr. Adam Rose, Minister of the Gospel at Dingwall, setting forth, That, in April 1759, he was examined as a witness at Dingwall, in the complaint at the instance of Mackenzie of Brae, against Colonel Scot and others; and complaining, That after he had emitted his deposition, Sir William Dunbar of Hempriggs used many injurious and indecent expressions with regard to his oath, charging him in pretty direct terms with perjury. And he prayed, That the complaint might be served, and Sir William found liable in damages and expenses.

The Lords found this summary complaint not competent, in regard the principal cause was determined, and out of Court.

Fol. Dic. v. 4. p. 310. Fac. Coll. No. 216. p. 392.

No. 16.

After decree
no summary
complaint
competent.

1764. July 24.

SIR ROBERT ANSTRUTHER, Baronet, and ROBERT WADDEL, conjunct Principal Clerks to the Bills, *against* CHARLES INGLIS, Depute-Clerk to the Bills.

Sir Robert Anstruther and Mr. Waddel preferred a petition to the Court, which prayed their Lordships to take the case under their immediate consideration, and to appoint the said Charles Inglis (a member of Court) to put in his answers to the petition against such a day as their Lordships should think proper; and, upon the merits of the question itself, to find, That the petitioners were entitled to discharge the duties of their office personally, and that Mr. Inglis, as Depute-Clerk, is only entitled to be assistant and subservient to them in such branches of the business of that office as they should please to commit to him, excepting in the case of their absence; and, as a consequence of the premises, that the petitioners are entitled to take into their own custody and keeping, in an office which they had prepared for that purpose, the whole books, records, bonds of cautionry, consigned money, &c.; and therefore to ordain Mr. Inglis to surrender and deliver up these to the petitioners on inventory, or otherwise, as their Lordships should judge proper.

This petition having been ordained to be answered, Mr. Inglis did accordingly put in answers, asserting, That the view of the petitioners, in this application, was to deprive him of several fees which had been understood from time immemorial to be the proper fees of the Depute-Clerk; and insisting that he had right to officiate in the same manner, and to receive the same fees which he and his predecessors were in use to do, submitting, at the same time, to the Court, that a question of this kind was more properly the subject of a declaratory action than of a summary application.

No. 17.

A summary
application
involving to
the nature of
the office of
Clerk of the
Bills found
not compe-
tent.