

It was alleged that, by the Mutiny Act, § 64, the Lords had sufficient jurisdiction to try matters of this sort ; but then it appeared that it could not be in the way of a summary complaint, but of action. They refused therefore the complaint.

Action for damages was accordingly brought, which is still in dependence.

In complaints against messengers for malversation in office, it is competent, by summary application, to complain not only against the messenger but against their cautioners.

See Books of Sederunt, *Forbes against Grant*.

SUPERIOR AND VASSAL.

1774. August 5. HAMILTON of PROVANHALL *against* MAGISTRATES of GLASGOW.

A RIGHT of superiority cannot be divided without the vassal's consent ; see Ersk., p. 183, 547. See, observed by Stair, 30th January 1671, *Douglas* ; 26th November 1672, *E. Argyle* ; 30th July 1678, *Lady Luss* ; same by Fount., 14th June 1678 ; — 9th June 1741, *Maxwell against M' Millan*, observed by Home, and 111 *New Coll.*, 51. But if the lands were contained in two or more different charters, though holding of the same superior, the superior may sell the superiorities to as many different persons without the vassal's consent. This is not to multiply superiors, but to continue them. So the Lords found, 5th August 1774, *Hamilton of Provanhall against Magistrates of Glasgow*. Lord Kaimes, Ordinary, had found so. The Lords refused a petition without answers.

1763. November 15. The D. of BUCCLEUGH *against* The INHABITANTS of DALKEITH.

THE Duke of Buccleugh, Baron of Dalkeith, infest *cum brueriis*, pursued certain of the inhabitants for importing ale into the barony, contrary to regulations made by his baron courts. "The Lords found, That, in respect the suspenders, and their authors, were feuars of the barony before the year 1673, when the regulations against importing ale into the barony were made, therefore, that these regulations were not binding upon the suspenders ; and suspended the letters *simpliciter*."