act 2d Geo. II. because not charged to be committed at the election to Parliament; 2*do*, That act gives no authority for summary complaint, the words being summary action on complaint; 3*tio*, No action for the penalty on the act 16th, because though it extends the act 2d Geo. II. to electors of delegates, yet *non constat* that the respondents shall be such; 4*to*, Still the trial must be by ordinary action in terms of the act 2*do Regis*; 5*to*, No process for annulling the election on the act 16th *Regis*, because not said to be done at the election; 6*to*, Some of the Council disputed even the relevancy, that bribery and corruption was not relevant to reduce an election, but only to punish the persons; 7*mo*, Not relevant without specially condescending on persons time and place. We repelled all the no-processes, and hitherto it could not appear whether there was place for the fines of L.500 libelled, till a new Parliament should be called,—and the bribes given particular persons were left too general,—yet as one was sufficiently condescended on to reduce an election, we thought we could not refuse the complainers an opportunity of proving other bribes to particular persons. Therefore we pronounced an act before answer.

No. 40. 1754, Feb. 27. GLASS *against* MAGISTRATES of ST ANDREWS.

GLASS and others presented a complaint 18th December that the Magistrates of St Andrews after finishing the several steps of the annual election whereof the last was 8th October last, three of the Councillors declining to accept, at a private meeting where only 15 or 16 were present without giving notice to the other Councillors what they were to do, chose three new Councillors not of the Old Council agreeable to the set, but of Guild-Brethren who had not been in Council. Answered, 1st, Not competent because the remedy provided by the act 16th Geo. II. concerns only annual elections, and must be brought in two calendar months. 2dly, Not relevant, because after the annual election is over, the filling up of vacancies by death or otherwise is an act of ordinary administration, and may be done *quandocunque*. We all agreed that it was not competent because the complaint was not within two months of the last step by the set of the annual election, and accordingly found it not competent; and the Court seemed also clear that it was not relevant, but of that I had some doubt, for I thought there was a difference betwixt a vacancy by death or by deprivation, and the case of the person elected his not accepting; for if acceptance is necessary the election is not completed till he accepts, in the same way as if one incapable were chosen; but we did not determine that point.

CAUTIO JUDICIO SISTI ET JUDICATUM SOLVI.

No. 1. 1743, Dec. 13. CAPTAIN DUNDAS *against* M'LEOD.

THE question was, Whether caution found in the Admiralty-Court *judicatum solvi* subsisted, though the defender died before decreet but after litiscontestation and proof? 2d, Whether a foreigner being heir of blood to such deceased defenders who are not otherwise within our jurisdiction, can be habilely called to make that caution subsist. Against the