

found that the said Justice of Peace was liable in expenses and damages to the plaintiff.

No 31.

Act. *Boswell.*

Alt. ———

Clerk, *Robertson.*

Fol. Dic. v. 2. p. 341. Bruce, v. 1. No 79. p. 95.

1715. February 19. LD. FULLARTON *against* Earl of KILMARNOCK.

No 32.

An unwarrantable decree being pronounced by the Justices of Peace, the LORDS nevertheless assolized them from the damages, but found the plaintiff liable for the same as *improbis litigator.*

Fol. Dic. v. 2. p. 341. Bruce.

* * * This case is No 219. p. 7503. *voce* JURISDICTION.

1750. January 3. ANDERSON *against* ORMISTON and LORAIN.

No 33.

HODGSON and Ormiston in Company grocers in Newcastle being creditors in L. 74 Sterling to Thomas Anderson, travelling chapman, late in Coldingham, wrote to James Lorain, writer in Dunse, to do the needful for recovery of their debt.

In a case of oppression, the Sheriff, as well as the pursuer and his doer, found liable in damages.

Lorain applied to the Sheriff, setting forth, That his constituents were creditors aforesaid, and were likely to be disappointed of their payment, for that Anderson's shop had been lately broke, and several of his effects stolen: That they were credibly informed his affairs were in disorder, that he was embezzling what remained of his effects, and designed to fly the country, therefore praying warrant to sequester his effects. And, of the same date, the Sheriff, without making any inquiry into the truth of these averments, or for ought that appeared, having so much as the grounds of debt laid before him, granted warrant to sequester, inventory, and value Anderson's effects, and to lodge the same in the house of Robert Corsar in Coldingham, whom, with David Ballantyne, he appointed to inventory and value the goods, to be made forthcoming to the petitioners and other creditors of Anderson.

This warrant was forthwith put in execution, so far that the goods were carried from Anderson's shop and inventoried, but the rest of the warrant was neglected; the goods were not lodged in the house of Robert Corsar, but, on pretence that he was not at home, in the house of one Idington; neither were they valued, as by the warrant had been directed. This happened on the 30th January 1741; and, in the meantime, decree having been obtained at the instance of Hodgson and Ormiston for the L. 74, arrestments were laid in Idington's hands by them, and also by Renton another creditor.