

No 384.

Action of damages for a verbal injury, found competent before the Bailies of Edinburgh.

1750. June 19.

HAMILTON *against* ARBUTHNOT.

HUGH HAMILTON merchant in Edinburgh, having brought a complaint before the Bailies of Edinburgh against Robert Arbuthnot merchant there, for having spread a report among ladies and others, that the goods in his shop, whereof he had advertised a sale, were a bite, that they were rotten and mildewed trash, and that it would be found so, the Bailies 'allowed a proof;' and on advising thereof, 'Found the complaint proven, and decerned Arbuthnot in L. 40 Sterling of damage.'

Arbuthnot presented a bill of suspension, wherein he objected *first*, to the competency of the Court to judge in questions of scandal; *2dly*, To the extent of the sum decerned, as extravagant, when the complainer could qualify no damage.

THE LORDS, on report, 'remitted to the Ordinary to refuse the bill.'

Though the Commissaries are the only competent Judges in matters of scandal, process of verbal injuries lies before the ordinary Judges; nor in cases of this kind can there be a strict calculation of the damage actually sustained; and as the Bailies of Edinburgh are all merchants, there could be no fitter persons to judge of the extent of the damage, and a great part of the sum must have been expended in the process. See REPARATION.

*Fol. Dic. v. 3. p. 362. Kilkerran, (REPARATION.) No 7. p. 491.*

1752. June 13.

RICHAN, Petitioner.

No 385.

ROBERT RICHAN, pursuer of a sale of the lands of Rapnes in Orkney, applied by petition, craving a warrant to the Magistrates of Kirkwall, at whose sight the common debtor's repositories had been sealed up, to allow the petitioner inspection thereof presently under their seals, and to take thereof an inventory and receipt for all discharges and receipts of debts, or other writings, that might be material for instructing the points in the petition mentioned.

THE LORDS 'granted the desire of the petition;' but, as they thought the Magistrates were not the proper persons to have sealed up the repositories, they conjoined the Sheriff-depute in the warrant, and appointed him, when the repositories should be again sealed up, to put his seal thereon.

*Kilkerran, (DEFUNCT'S WRITS.) No 1. p. 155.*

No 386.

It belongs to the Magistrates to

1762. December 10. TAILORS of Edinburgh *against* Their JOURNEYMEN.

THE spirit of mutiny showed itself some time ago among the workmen in the city of London, and came to such a height as to require the aid of the legisla