

- No. 56. standing the jurisdiction act, as was found *me referente* on a bill of advocacy by Alexander Goldie, writer to the signet, of a process against him for L.4 sterling before the Magistrates of Edinburgh.

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1752. *January 15.*

ARCHIBALD and ALEXANDER M'DUFF *against* MELISS.

No. 57.

ARCHIBALD M'DUFF bought a hogshead of lintseed from Alexander M'Duff, which he borrowed from Meliss, who had bought some lintseed from Boog, who had bought part of a greater parcel from Colin Brown, where it still lay; and Archibald and Alexander M'Duff were brought to Brown's cellars, where Archibald got the hogshead of lintseed that he bought from Alexander; and it proving insufficient, both Archibald and Alexander M'Duff sued Meliss before the Magistrates of Perth on the act 13th Geo. II., and recovered decret for L.4. 15s. as the value, and L.2. 10s. of fine. Meliss suspended, and Monzie, in terms of that act, found suspension not competent. Meliss reclaimed, and the difficulty was, that Meliss had not sold the lintseed to Alexander M'Duff in terms of the statute, but only lent it till his own should come home, and one farmer lending or giving in a present lintseed to another to sow his grounds, would not be within the purview of the act; but as he lent it to be sold, and as Archibald M'Duff had certainly action against Alexander M'Duff, Meliss ought to relieve him; and therefore we adhered.

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1752. *February 19.*

MARGARET SEMPLE *against* ELSPETH MARSHALL.

No. 58.

RIOTS may be tried without Jury by Sheriffs and others, even where the punishment amounts to whipping, correction-house, or banishing the shire or town, as the Court thought; and therefore remitted back to the Sheriff a riot libelled by way of hamesucken.

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1752. *December 19.*

THOMSON, Supervisor of Excise, *against* STRAITON of Laurieston.

No. 59.

STRAITON of Laurieston recovered a decret of the Justices of Peace against Thomson, supervisor, and other officers of Excise, for damages, for

having, on a warrant to search, broke open his cellars, and seized four hogsheads of white wine, which were not exciseable, but under the customs, and were afterwards condemned in Exchequer for not paying the King's duty, and for certain other irregularities in the seizure. The Excise officers suspended, and alleged that this question could only be tried in Exchequer. Answered, That before the act *9no* Geo. II. there might have been some hazard of a collision of jurisdictions, because before that act the manner and lawfulness of the seizure was part of the issue tried in Exchequer; but now the manner of seizing is no part of the issue in that Court, and therefore any injury committed in making the seizure, may be tried in the same way as any other injury. Lord Drummore found the process competent, but on reclaiming bill and answers, we superseded till we might have a conference with the Barons of Exchequer.

No. 59.

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1753. *January 31.* BRUCE *against* FRENCH, Procurator-Fiscal.

No. 60.

ONE who has in terms of the jurisdiction act once qualified by taking the oaths as Baron Bailie of one Barony, and lodged his certificate in the Sheriff-Court,—not bound to qualify again as Bailie of another Barony in the same shire;—and one being fined L.10 by the Sheriff of Aberdeen for not having so qualified a second time, we suspended the letters *simpliciter*.

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1753. *August 7.* AUCHINCLOSE, &c. *Supplicants.*

No. 61.

A SHERIFF-OFFICER and two Commissary officers who made a false execution, the one as officer and the other two as witnesses, bearing, that the execution was in their presence, though they were not present, were, in respect of their ingenuous confession, sentenced only to be put upon the pillory at Glasgow.

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1753. *December 11.*

JUSTICES OF PEACE OF FIFESHIRE, *Petitioners.*

A PETITION was presented to us in the name of ten or eleven Justices of Peace of Fifeshire, showing, that they had convened before them two Excise-officers, who had broke into General Sinclair's house, and justified what

No. 62.