

## BARON BAILIE.

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1753: February 20. JOHN FRENCH against JOHN BRUCE.

**J**OHN FRENCH, procurator-fiscal of the Sheriff court of Aberdeen, exhibited a complaint to the Sheriff-Depute against John Bruce, for having acted as Baron Bailie to Leslie of Coburty, without having taken the oaths to the government, and registered a certificate thereof as directed by 20th Geo. II. cap. 43. concluding for the penalty of L. 10.

Bruce *answered*, He had been formerly appointed Baron Bailie to another gentleman; and as such had taken the oaths, and registered a certificate thereof in the Sheriff court books of the same county of Aberdeen, where he did then, and does now reside: And therefore *pleaded*, he was not liable to the penalty; for that the statute does not require persons to take the oaths, and register a certificate thereof, each time they are appointed Baron Bailies. The Sheriff decreed the penalty of L. 10.

Bruce raised letters of suspension; and *pleaded* as above.

French *insisted*, That, by the words of the statute, the Legislature meant to put Baron Bailies upon the same footing, as to taking the oaths, with other judges. A Sheriff-Depute or Justice of Peace, though qualified for one county, must, upon being appointed to another county, take the oaths a second time. Baron Bailies ought therefore to do the like.

THE LORDS were of opinion, that the statute being a penal law, the words of it ought not to be extended.

‘They suspended the letters *simpliciter*.’ See JURISDICTION, Baron Court.

A&A. *Ja. Montgomery.*      Alt. *Lockhart.*      Clerk, *Justice.*

*Swinton.*

*Fol. Dic. v. 3. p. 68. Fac. Col. No 67. p. 102.*

### No 1.

A baron bailie who had taken the oaths to government, conform to 20th Geo. II. c. 43. found not obliged to repeat them upon being appointed baron bailie to another.