

No. 1. ' that had he been present, he would have voted for Colonel Campbell as Pro-
' vost; and thereupon took instruments.'

Upon the 15th of October, the following judgment was pronounced: ' The
' Council having again this day considered the minutes of election of the Deacon
' of the Weavers, certificate produced by Frances Oatman younger, and schedule
' of protest; and having heard both parties, allows them to prove their several
' allegations against the voters, and force used, and uproar raised at the elec-
' tion, as mentioned in the minutes, schedule of protest, and condescendence;
' and for that end appoint the Magistrates, Mr. Taylor, Mr. Cunninghame,
' Mr. Swinton, or any four of them, as a committee, to take said proof, and
' report the same Monday se'ennight.'

Against this procedure, Mr. Swinton protested for himself and his adherents, that the Council should in justice and equity have immediately proceeded in terms of their interlocutor of the 30th September last: To this protest Mr. Taylor, Lieutenant Stewart, Deacon Dale, Robert Miln, and William Flockhart adhered.

Upon the 28th of November 1776, James Bell preferred a petition and complaint to the Court of Session, founding on the authority of an act passed in the 16th year of Geo. II. entitled, *An act to explain and amend the laws touching elections in Scotland.* The petitioner stated, that the whole of the procedure in the Council allowing investigations and proofs to be reported at a distant day in order to delay his admission, was unprecedented and unwarrantable: That it was the duty of the Council instantly to receive the deacon who was chosen by a majority of the incorporation: And if any wrong had been committed by that majority in the course of the election, the proper method of obtaining redress was by complaint to the Court of Session. He therefore concluded, that he should be ordained furthwith to be received, and be allowed full costs of suit.

Upon advising the complaint, with the answers, replies, and duplies, " The
" Lords dismiss the complaint as incompetent, reserving to the complainer to
" insist for redress in the ordinary course of law, and all defences against the
" same as accords. And decern."

Act. Blair.

Alt. Hlay Campbell.

Clerk, Tait.

W. W.

1806. February 7. HOME against SWINTON.

No. 2.
Summary
application
incompetent
against a

A PETITION and Complaint was presented at the instance of the Reverend George Home, minister of Ayton, and three other clergymen in Berwickshire, against John Swinton, Esq. of Swinton, the Sheriff-depute of that county, and