

S E C T. XII.

Malversation in Office.

1740. July 12. & 25. PRIMROSE Suspender.

No 25.

THE Justices of the Peace of Haddingtonshire, having fined an officer of Excise for having entered the house of an alehouse-keeper under cloud of night, without the presence of a constable, and searched for run brandy, in five pounds Sterling to the party, and ten shillings to the procurator-fiscal, though neither forcible entry was alleged, nor that the landlord opposed or declined the search, at making whereof he was present; and a bill of suspension of this decree being refused by the Ordinary, two reclaiming petitions were refused without answers.

Fol. Dic. v. 3. p. 178. Kilkerran, (DELINQUENCY) No 6. p. 157.

1749. February. HOPE against DRUMMOND.

No 26.

ENSIGN HOPE gave in a summary complaint against Robert Drummond, messenger, for having executed a caption against Sir Alexander Hope his father, when disordered in his senses, and in the infirmary, into which he had been put the night before by his friends on that account, and having thence carried him, not to prison, but to a public house, where he had searched his pockets and taken from him what money he had.

A messenger
fined for mal-
versation in
office.

Drummond having been appointed to attend, *answered*, That he owned he had, in virtue of a caption, apprehended Sir Alexander in the infirmary, which was no sanctuary: That he did not to him appear to be disordered in his senses: That he carried him to a public house at his own desire, that he might have time to apply to his friends to bail him; but not prevailing on any, he accepted of four pounds four shillings Sterling, which Sir Alexander voluntarily gave to his employer to account of the debt; and denied putting hand into Sir Alexander's pockets.

Upon proof brought by either party, it appeared that Sir Alexander was in great disorder in the infirmary: That the woman who keeps the house had remonstrated against taking him out in that condition: That the messenger would not desist: That Sir Alexander went into a chair, in which he was carried to a house between the head of Forrester's wynd and the tolbooth: That he there again behaved like a person not sound in his judgment, having wrote letters to Gavin Hamilton and others, which appeared to the landlord in the house, who