

## No. 10. 1738, Jan. 6. CREDITORS of WINRAM of Eyemouth.

See Note of No. 12, *voce* BANKRUPT.

No. 11. 1739, July 17. GORDON *against* CASTLEMAIN.

I keep this because of a point in it a little delicate, Whether during the dependence of a process here, the party can take out the paper and sue in another country, or whether doing so is a contempt of authority? By plurality we found it no foundation for a summary complaint.

No. 12. 1741, June 5. SIR JAMES STEWART of Burray *against* GRAY.

THIS was a process at the instance of 13 pursuers against 17 defenders for 14 acts of oppression wherein Sir James Stewart was defender. The Ordinary found the process cannot proceed at the instance of the whole pursuers but only at the instance of any one of them; and the Lords adhered with this qualification, that where two or more are aggrieved by the same fact they may join together.

No. 13. 1741, July 20, 29. BLACK *against* GEORGE GORDON.

THE Lords granted to Black the pursuer letters recommendatory to the Parliament of Bourdeaux to certify what is the law of France as to certain points on which the decision of a cause in this Court depends, and recommended to Arniston and me to search precedents as to the form of such letters. The clerks shewed us one late precedent betwixt 1720 and 1730, where the clerk wrote the letter by authority of the Court, and had the seal of Court appended; but that form seemed incongruous.

## No. 14. 1742, June 2. MAGISTRATES OF FORFAR.

IN this reduction of election of Magistrates the days of compearance in the libel being blank when insisted in, and upon challenge being filled up the 19th and 26th November, (the execution being in general to the days contained in the summons) and the defenders' copies being produced, one of them was to 19th and 25th November the rest to 19th and 27th, the Lords sustained the nullity to cast the process, and altered Monzie's interlocutor, *quibusdam renit. inter quos ego*, but the President and Arniston positive for the interlocutor.—10th June, Adhered by the President's casting vote.

No. 15. 1743, Nov. 23. HUNTER *against* HAMILTON.

THE question came to this, Whether a defender after proponing improbation and the pursuer abiding by, the defender may pass from his improbation and recur to other defences, when no term or diligence for proving has been assigned; for if the defender Hunter could pass from his improbation when he gave in his petition to us, and we gave our interlocutor appointing it to be answered, nothing that passed afterwards before the Ordinary ought to bar him;—and we agreed to alter and to admit him to his defence. But we repelled the defence itself that the bond was recited of a wrong date.