

have been inserted in the order of their dates; therefore we ordered this charter with our deliverance on this petition to be inserted in that blank.

No. 34. 1746, July 1. JEAN DENHOLM, *Petitioner*.

THERE being a long vacancy in the magistracy of this burgh, Edinburgh, by the Rebels stopping the election at Michaelmas last, the question was, Whether we can appoint Magistrates of the town to receive resignations and grant infeftments, as we can Sheriffs? The difference is, that Sheriffs as to that point are purely ministerial to execute the precept of sasine granted by the King, whereas Bailies give the precept or charter as if they were superiors. But the President thought that this was no more than to appoint an officer that the course of the law be not interrupted, and it carried to appoint, only Tinwald and I did not vote; and accordingly they appointed Bailie Hamilton one of the last Bailies.

Upon a petition from the town clerks and others, with a long memorial, the Lords authorized the four Bailies of last year to receive resignations and grant infeftments of the burgage lands.

The Lords this day (18th July) nominate and appoint Bailie Gavin Hamilton, and two or three more, or any of them in that part, to receive applications from insolvent prisoners upon the act 1696, and to execute that act. This was on the petition of James Braidwood, and some weeks ago on the petition of one Beugo.

The Lords having the 1st, 2d, and 18th of this month appointed Bailies for giving insolvent debtors the benefit of the act 1696 in the town of Edinburgh during the vacancy of the magistracy,—the town clerks prayed us to appoint a Dean of Guild and Council, which we granted, but restricted their powers to stopping encroachments in building and preventing unfreemen's retailing.

No. 35. 1746, June 6, July 16. SCOTT *against* FULLERTON, &c.

THE Lords adhered unanimously to the Ordinary's interlocutor fixing the wideness of the hecks to three inches; 2dly, That the soles of the cruives must be in the bottom or channel of the river, but as to the height and breadth or thickness of the dike, as there was no line regulating them nor reason, if it was not to allow the salmon to leap them, so the practise in the river Don 1666 seemed founded on the tenor of the grant referring to former possession, and that in 1684 in this river seemed also to be on former possession, at least that in 1662 was so in express words, and did not limit the breadth but only height: Therefore the major part were for altering this interlocutor as to that point, and found no sufficient cause yet shown for limiting the defender as to the height or breadth of the dike, and continued the rest of the cause till Tuesday, and parties procurators to be then heard. We, June 11th, after hearing these two days, unanimously altered the Ordinary's interlocutor with respect to the side-dike, and found that there was no sufficient cause for removing it since the soles of the cruives are ordered to be lowered, and the Ordinary himself agreed. And lastly, We unanimously adhered to the Ordinary's interlocutor ordering the soles of the cruives to be lowered, and the wideness of the