

one of the Bailies not being findwellers in the Burgh, and assolzied from the complaint.—(11th June.)

No. 25. 1747, June 30. MAGISTRATES OF KIRKWALL *against* INHABITANTS OF STROMNESS.

THE Magistrates pursue the defenders as unfree traders, upon the 84th act 1503, 154th act 1592, 5th act 1672, to pay the value of all goods imported or exported, bought or sold for some years backward;—but we found that no such action does lie for the value of these goods, but only for confiscating the goods themselves; and refused a bill reclaiming against Minto's interlocutor without answers. Only Arniston, Strichen, and Monzie were for seeing.

No. 26. 1747, July 3. *ELECTION OF RUTHERGLEN.

By the set of this Burgh the inhabitants Burgesses chose by a poll eight persons, out of whom the Magistrates chose three to be Councillors, and the several Crafts chose each six persons, of which six the Magistrates chose three to be Councillors this last year. A bill of suspension was presented of the votes of 15 Burgesses because they were coaliers, and from an Ordinary in time of vacance (through inadvertence) obtained a sist. At the poll the sist was presented; however their votes as well as of all the other inhabitants were marked; but the Provost who presided at the poll, that he might neither contemn our authority, nor do injustice to the coaliers Burgesses, would not report the leets chosen by either party, and therefore he and the two Bailies chose other four Councillors *tanquam jure devoluto*. Upon complaint of this election, we all were displeas'd with the sist, as was also the Ordinary who gave it, and the President was for sustaining the election on that account. But the majority thought that that could not give a right to him and the two Bailies to choose whom they would; and therefore on the question, the election was reduced, and on a suggestion, that because of that sist several who had a right did not vote, we ordered a new poll. Then the question was as to the objection to the coaliers. I thought that as by our law they had not the free disposal of their persons, to give them votes was inconsistent with the freedom of election;—but it carried to repel the objection. It was also complain'd, that the leet of six of the weaver trade was carried by admitting two minors to vote, and we sustained the objection, reduced the election made of three of that leet, and ordered three to be chosen out of the other leet; for we thought that though a minor might be a Freeman of an Incorporation, yet he could have no vote in their affairs. In the same complaint one Hall a notary, having in a blank that was in the bill of suspension, filled up three coalier Burgesses besides the 15 that were in it when the sist was granted, we deprived him of his office, fined him 40 shillings sterling to the poor, and in the expenses of the complaint against him, for which we gave a summary warrant. And 20th Adhered as to Hall.—and 20th February We Adhered to the other interlocutor.—(15th January.)

A COMPLAINT being offer'd us, the beginning of this Session,—a complaint of the Magistrates for not duly executing the order of this Court, mentioned 15th January, in the new poll for four Councillors, which we then ordered to be served on the parties, and