

No. 59. 1752, Dec. 19. THOMSON *against* STRAITON.

SOME Excise officers, on a warrant to search, having broken open cellars and seized four hogsheads of white wine, which are not exciseable, but under the Customs, and were condemned in Exchequer for not paying duty, Straiton sued the officers before the Justices of the Peace for damages, and charged certain other irregularities in the seizure. —The cause was advocated, and it was objected that this could only be tried in Exchequer. Answered, that before the act 9th Geo. II. the manner of seizing was part of the issue tried in Exchequer, and then indeed there might be danger of collision of jurisdictions, but since that act, that is no part of the issue there, and therefore triable as any other injury. Drummore found the process competent;—but on a reclaiming bill and answers, we agreed to supersede till we should have a conference with the Barons.

No. 60. 1753, Jan. 31. BRUCE *against* FRENCH, Procurator-Fiscal.

A person who had qualified to the Government several times since 1745, and once particularly as Baron Bailie to one Gentleman, and lodged his certificate of his having done so in the Sheriff-Court of Aberdeen in terms of the jurisdiction act, was afterwards employed as Baron Bailie by another Gentleman and neglected to qualify again, for which being sued the Sheriff fined him in the statutory fine of L.10, which he suspended, because he had already qualified as Baron Bailie to another Gentleman and lodged his certificate. The question was reported to us by Lord Minto, and we suspended the letters *simpliciter, renit.* President. 20th February, Adhered, and refused a bill without answers.

No. 61. 1853, Aug. 7. AUCHINCLOSS, &c. *Supplicants.*

See Note of No. 4. *voce* EXECUTION.

No. 62. 1753, Dec. 11. JUSTICES OF PEACE OF FIFESHIRE, *Petitioners.*

LAST week a petition was presented to us from ten or eleven of these Justices, mentioning a complaint of a riot brought before them against some Excise officers who had broken into a house belonging to General Sinclair, and justified themselves by the pretence of a writ of assistance from Exchequer, and a deputation to two of them to act as officers of Customs, that a writ of *certiorari* from the Exchequer for removing that process into the Court of Exchequer was served upon them, and that when thereafter they pronounced sentence fining the defenders and committing them to prison till payment, the Court of Exchequer had issued an order to the keeper of the prison to set them at liberty, and praying relief from us, and containing also sundry expressions not at all respectful to the Court of Exchequer. We thought proper to take the petition under consideration with shut doors. Several disapproved of what the Exchequer had done, for that a process of riot was truly not within their jurisdiction, and therefore though we had no jurisdiction over them, proposed that we should desire a conference. Others *inter quos ego* were of