

No. 16. 1744, Dec. 11. HERDMAN *against* YOUNG.

HERDMAN having commission from some feuars and inhabitants of Stonehive, dated 1741, raised in 1742 reduction, improbation, and declarator against York-Buildings Company, and others having commissions from them as Bailies, Treasurers, Clerks, and other officers in Stonehive, to have it found that the feuars had the nomination of these officers, —and in the same summons engrossed in the form of a criminal libel a charge against John Young, town-clerk, of a number of grievous oppressions committed by him, not on the pursuer but on many persons, a few named, but some hundreds not named, in the shire of Kincardine, in Young's several offices of Clerk of Stonehive, Sheriff-clerk and Sheriff-substitute of Kincardine, and Clerk to the Peace, concluding a declarator of infamy, incapacity, fraud, &c. This I reported on memorials. Found that part of the libel incompetent, injurious, and defamatory, fined the pursuer in L.10 sterling to the poor, and in the full expenses to Young, and ordered that part of the libel to be delete.—N. B. The pursuer had printed this libel and sent sundry copies north, and after raising it had obtained a commission from eight persons not in the first commission to prosecute it. The Lords seemed to think, though the parties injured had been complainers, that yet such a *cumulatio actionum* as joining this with the reduction and declarator was incompetent. 2dly, They also doubted of their own power to judge such an accusation, where the pursuit was principally or solely *ad vindictam publicam* and not for reparation.

No. 17. 1746, July 11. A. *against* B.

REPORTED by Drummore without naming parties, a summons wrong filled up in the days of compearance. The summons being dated May 1745 was executed in June, and the blanks were filled up to 3d and 13th June next, which was before the execution. The pursuers craved to amend the summons; and the question was whether they could be allowed or not? and it carried, not, by the President's casting vote, *renit. inter alios Tinwald et me.*

No. 18. 1749, Jan. 6. CREDITORS of BAIN of Tulloch, viz. SIR HENRY MONRO *against* BAIN AND HIS CREDITORS.

FIND that the sale cannot proceed on a summons not containing the whole lands belonging to the common debtor, though the lands omitted were lands to which he succeeded but was not entered.

No. 19. 1751, July 18. HERITORS OF ST NINIANS *against* KIRK-SESSION.

IN a process at the instance of the heritors of St Ninians against the Minister and kirk-session to account for the poors' money, and to exhibit all books and papers touching the poor, two of the elders having been omitted to be summoned, whercof one had not attended the session for some years, Lord Minto, Ordinary, gave an incident diligence for summoning them; but on a reclaiming petition to us, we all thought that they could not be