

No 2.

1542. December 9. The POOR WIFE of BROUGHTON *against* M'CALL.

GIF ony persoun alledge him to have bene wrangouslie accusit be ane uther in judgment, of thift, or ony uther crime, and to be quyte and clengit thair of, the samin may not be provin be the judge, clerk, memberis of court, persounis of inqueist, or uther famous witnessis; because judicial actiounis and actis may not be provin be witnessis, bot be writ.

Balfour, (OF PROBATION BY WRIT.) No 24. p. 366.

* * * Sinclair reports this case :

THE LORDS, by interlocutor, decerned, that *acta judicialia* might not of the practice be proved, but *per scripta*, and, therefore, a cause moved by a poor woman of Broughton against John M'Call, for accusing of her wrongfully of certain theft, of the which she was made quit by an assize, and, therefore, the said John ought to pay her, by the act of Parliament, L. 10 for amends, the LORDS would not admit the Judge and Bailie, and certain other famous men that were upon the said woman's assize, to prove, that the said John had accused her.

Sinclair, MS. p. 44.

No 3.

1584. March.

BISHOPTON *against* ———.

THE Laird of Bishopton pursued reduction of a horning, where he was put to the horn for not finding caution in law-burrows, according to the act of Parliament. The reason of reduction was, that the officer had committed him to the horn, and had received no making of faith, that the party complainer feared him for bodily harm, according to the order prescribed in the act of Parliament. The executions of the officer being produced, there was no such execution that there was any faith made to the officer. The other party offered them to prove the same *per testes et dummodo prout de jure*. THE LORDS would not admit nor receive other probation than was contained in the execution already produced by the officer.

Fol. Dic. v. 2. p. 212. Colvil, MS. p. 393.

No 4.

1622. July 3. FRENCH and LORD THORNYDIKES *against* CRANSTON.

A REQUISITION made to an heir was found not valid to infer the double of the marriage, because, at the making the said requisition, the donatar had not the gift in his hand, nor did he show or exhibit it, at least the instrument