

'witnesses,' an enactment which was strictly complied with in the sasine 1773; and that the statute 1686 is altogether independent of, and was not repealed or qualified by the act 1696, is clear from the latter only requiring that the witnesses should subscribe the last page of the deed, whereas the former ordains that the witnesses to a sasine shall sign every page of it; a form which is at this day indispensable.

The act of sederunt 1756 is inaccurate, in supposing that the act 1696 regulates the subscription of sasines.

THE COURT, on the grounds stated for the complainer, 'found the respondent was not entitled, in virtue of his titles claimed upon, to be enrolled in the roll of freeholders for the shire of Forfar; and therefore granted warrant to, and ordained the Sheriff-clerk of the said shire to expunge his name from the said roll.'

For the Complainer, *Lord Advocate Dundas, Solicitor-General Blair, Geo. Fergusson, Arch. Campbell, jun. Alt. H. Erskine, Hay, Mat. Ross, Ad. Gillies, Geo. Robertson Scott. Clerk, Home.*

R. D.

Fol. Dic. v. 3. p. 431. Fac. Col. No 207. p. 491.

DIVISION VI.

Summary Complaint to the Court of Session.

SECT. I.

Who must be called in a Summary Complaint.—Service of a Complaint.—To whom Competent.—Within what time Competent.—Whether a separate Complaint must be preferred by each Complainer.

1745. February 13. DICKSON of Kilbucho against GIBSON of Boreland.

GEORGE GIBSON of Boreland standing on the roll of freeholders for the shire of Tweedale, a complaint was given in against Thomas Gibson of Boreland, which being ordered to be served, an execution was returned also against Thomas.

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A complaint was, by mistake, served on Thomas

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the son instead of George the father. Found that the father could not be thereby affected.

Answers were given in in name of Thomas Gibson younger of Boreland, setting forth, that he was not on the roll, nor claimed to be during his father's life.

The complaint, on seeing the mistake, was executed against George, and coming to be insisted in, the LORD ORDINARY, 11th January 1745, on advice with the LORDS, found, 'That Thomas Gibson of Boreland did not stand on the roll of freeholders for the shire of Tweedale; and found that George Gibson the father not being contained in the complaint, the complainers could not be heard to object to the said George why he ought not to stand on the roll of freeholders.'

A petition was presented, which was ordered to be answered by George, and answers were given in thereto, in the name of the father and son.

Pleaded for the petitioner, It was only a misnomer, and seeing *constabat de persona*, it were unjust on this pretence to continue on the roll a person who had no right to be there.

Answered, it was more than a misnomer, a wrong person had been complained upon, a wrong person summoned, and it was now past time to complain against George the father, after the lapse of the time prefixed by the statute; that the second execution was without a warrant, the order of the Court being to cite Thomas, against whom the complaint was.

THE LORDS adhered.

Act. *Menzies*.

Alt. *Geddes*.

Fol. Dic. v. 3. p. 437. D. Falconer, p. 76.

1761. July 28.

STEWART *against* DALRYMPLE.

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By act of sederunt 15th November 1760, it is ordered, that each petitioner against the proceedings of freeholders shall present a separate petition for himself, and that each petition shall complain against one defender only, except where more petitioners or defenders may be necessarily connected. Some time before this enactment, a petition had been presented in the name of several different complainers, and upon as many different grounds. *Objected*, It is a general rule of law, that different actions cannot be accumulated in the same libel.—THE LORDS repelled the objection, in respect of the practice in similar cases.

N. B. Though all the interlocutors on the questions between these parties are collected at the date of the last of them, the judgment upon this particular objection must have been prior to the act of sederunt.

Objected to the service of a summary complaint, That instead of extracting the interlocutor, the complainers had borrowed up the principal interlocutor itself, and delivered it to a messenger to be executed. *Answered*, The principal