

1748. *July 12.* MUIRHEAD *against* MAGISTRATES of HADDINGTON.

No. 28.

AN agent being employed by the Convenery, (that is the Deacons of Crafts) at Haddington in 1719,-20,-21, and 1722, in reductions of several consecutive elections of Magistrates, in which the pursuers at last prevailed; the Lords found the Burgh not liable for his account of expenses, because he was not employed by the Town Council; *2do*, Found also the account prescribed, notwithstanding an act of Council in 1730 acknowledging that it was not paid; *3tio*, Found the several incorporations of Crafts not liable because not employed by them, but by the Deacons;—and being employed by the succeeding Magistrates and Council to defend their election in 1723, found the town liable for the account, and found it not prescribed in respect of the said act. Arniston thought such accounts fell not under the act of prescription, because there is no party by whose oath they can be proved. And as to the accounts of expenses in defending the election 1730, remitted to the Ordinary to enquire whether that agent's employers were or were not in possession; and their possession being proven, we found the town liable, though his clients were in the issue turned out.

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1749. *January 12*

ELECTION of WICK.

No. 29.

IN the declarator at the instance of several inhabitants of the town of Wick against Ulbster, that he had no right to a privilege contained in their charter of erection by King James VI., that the Provost and four Bailies must be chosen *cum avisamento Georgii Comitum de Caithnes ejus hæredum et successorum*, who also had by the same charter a proportion of the entry-money of every Burgess; the Earl of Caithness having compeared for his interest, we first found that privilege not alienable, but inherent in the heirs to the honours of Earl of Caithness, 18th November 1748; but we afterwards altered, and found it alienable, and remitted to the Lord Ordinary to hear parties procurators, whether it was actually alienated; *2do*, We found that a person not residing might be Provost, because of the immemorial usage, though the charter expressly required that the Provost and four Bailies be inhabitants; *4to*, We found that the Councillors must be inhabitants, which some of us thought was required by the charter; but on a reclaiming