

briefe for every royal burgh. The briefe is accordingly made out, returned to the Exchequer, and sent to the several Sheriffs, to be served in all the royal burghs within their bounds, as directed by the statute. These briefes are accordingly so served by the Sheriffs; and, particularly, it is a constant form in most of the royal burghs, to issue a proclamation, through the town, fifteen days before the day of appearance in Exchequer, warning the inhabitants to appear there at the day named, to make their objections against the public accompts of the town; and, to give them access to frame objections, the book and compts are laid open, for these fifteen days, to be inspected by all the inhabitants.

What is done in Exchequer, in obedience to this briefe, the defenders know not. Possibly this matter may be carried on as slovenly as many other articles of public police are. And if private burgesses, after being invited, do not think proper to appear in Exchequer, and enter their complaints, the Barons are not to blame for not inspecting these books. But, as every private burgesse is yearly invited to make his complaint in Exchequer, where he must be heard summarily and *de plano*, without the expense of a process, no man can complain of the want of a remedy, when so direct a one is at hand, nor pretend that a popular action is necessary, as if no other remedy were competent.

The Judges will also attend to an inconveniency that must follow the sustaining a popular action in this Court; no private burgesse, nor number of burgesses, by bringing a popular action in this Court, can deprive the other burgesses of a privilege established to them by statute, to have the management of their Magistrates examined and controuled in Exchequer. It may happen then, that when a popular action is depending in this Court, other burgesses will follow the established method of complaining in Exchequer; and it may happen, that the Court of Exchequer approves of what is condemned here, or *e contra*. What must follow upon such contrariety of judgment in two Sovereign Courts? The matter is rendered inextricable by this new invented popular action.

The advising the reclaiming petition for the Magistrates was superseded. The pursuers, despairing of success, have not thought proper hitherto to press for a judgment; and probably we shall hear no more of it. See PROCESS.

*Rem. Dec. v. . No 101. p. 181.*

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1752. June 30. JAMES CATHE *against* MAGISTRATES of Musselburgh.

MAGISTRATES of a burgh of regality have the same power with magistrates of a royal burgh, to grant feus of the common good of the burgh. This was the unanimous opinion of the Court.

*Fol. Dic. v. 3. p. 140. Sel. Dec. No 10. p. 12.*