

election quarrelled: THE LORDS found, 2d and 29th July, That by constituent members was understood any person who was entitled to have been a member, though not present at the election; and repelled also that objection. See SUMMARY APPLICATION.

No 20.

*Kilkerran, (BURGH ROYAL) No 7. p. 107.*

1754. February 28.

ANDREW GLASS, and Others, *against* The MAGISTRATES of ST ANDREWS.

The annual election of the magistrates and council of the burgh of St Andrews, was begun upon the 26th September, and ended on the 8th October 1753. Three of the counsellors chosen declining to accept, a council was called upon the 19th of the same October, when three other persons were elected in their places.

Upon the 18th December following, a petition and complaint was exhibited by Andrew Glass, one of the bailies, and others, on 16th Geo. II. cap. 11. for annulling the election of these three new counsellors, and for costs.

*Objected* to the competency of this complaint: *1mo*, That the act of Parliament doth not authorise application to the Court of Session by summary complaint, except against the proceedings at the annual election, or previous thereto; and that the proceedings of the magistrates at an ordinary meeting, such as this was, can be reversed by way of reduction only. *2do*, That supposing the election complained of to be within the act, yet the summary complaint ought, in terms of the act, to have been exhibited *within two kalendar months after the annual elections of the magistrates and counsellors*. Now this complaint, though within two months of the election complained of, was more than two months after the annual elections.

The Court was of opinion, that the annual elections only could be summarily complained of upon the statute.

'THE LORDS found the complaint not competent, and therefore dismissed the same.' See SUMMARY APPLICATION.

Act. *Ja. Ferguson.*

Alt. *Ro. Craigie.*

Clerk, *Pringle.*

*Fac. Col. No 102. p. 152.*

1755. February 18.

HENRY GILLIES, Merchant in Linlithgow, and Others, *against* ALLAN WAUGH, Merchant in Linlithgow, and Others.

AT the annual election of magistrates and counsellors for the burgh of Linlithgow made at Michaelmas 1754, there was a controverted election, and a double set of magistrates and counsellors chosen; and each party brought a pro-

No 21.

Elections for filling up vacant places in town councils in burghs, made by ordinary meetings of council, cannot be tried by summary complaint upon 16th Geo. II. c. 11. which relates only to annual elections.

No 22.

In a process for reducing an election of one set of magistrates and counsel-