

1754. July 9.

BLAW of Castlehill *against* ROBERT GEDDES and Others, Justices of Peace.

No 327.
Justices have
no power of
imprisoning
for civil
debts.

MRS BLAW, the pursuer's wife, having done diligence against him, upon a decret for her separate aliment, the expense of that diligence amounted to L. 13 : 15s. Scots ; she brought action against him for that sum, before the defenders, as Justices of Peace in the Culross district of the shire of Perth ; and, in her libel, she craved not only decret for the said sum and expenses of plea, but also a warrant of warding, in case payment should not be made within fifteen days after the charge.

The defences made for Mr Blaw were ; *imo*, That Mrs Blaw, being clothed with a husband, could not pursue without his consent. *2do*, That the Justices of Peace were not competent judges in this cause.

“ The Justices decerned, and granted warding in common form.”

The pursuer being thereon put in jail, brought an action of wrongous imprisonment against the Justices ; wherein it was *insisted*, *imo*, That the Justices of Peace have no general jurisdiction in civil debts ; and, *2do*, Though they had such jurisdiction, yet they have no power of warding or committing to prison.

Pleaded for the defenders ; That such was the constant practice of the Justices in that shire, as well as in many other shires in Scotland ; and that this practice was founded on public utility.

THE LORD ORDINARY repelled the defence ; and, upon a reclaiming petition,

“ THE LORDS found, That the Justices of Peace did wrong in granting warrant for warding ; but, in respect that the pursuer does not now insist, and that the Justices were in practice of granting warding, they assoilzie, and decern.”

Act. Lockhart.

Alt. Haldane et Bruce.

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Fol. Dic. v. 3. p. 358. Fac. Col. No III. p. 162.

1756. February 10. WILLIAM FERGUS *against* AGNES RAMSAY.

No 328.

AGNES RAMSAY brought a process against William Fergus, before the Justices of Peace of Stirlingshire, for the sum of L. 50 Sterling, part of which she alleged was due to her as a legacy left her by her deceased husband, whom the defender represented, and the remainder was due by an open account, which she offered to instruct by the defender's oath.

William Fergus declined the Justices of Peace as incompetent, and offered no other defence.