

No. 17. to know. These forms were at any rate so dissimilar in the two kingdoms, that from the practice of the one no rule could be drawn for the guidance of the other.

The Court " Advocated, altered, and found expenses due."

Lord Ordinary, *Cullen.* Act. *Ar. Fletcher.* Alt. *David Cathcart.*
James Smith, W. S. and David Stewart, jun. W. S. Agents. *H. Clerk.*

J. W.

Fac. Coll. No. 15. p. 43.

1807. December 12. MICHAEL FORREST against DAVID CRICHTON.

No. 18.
 An action of scandal may competently originate before the Sheriff.

DAVID CRICHTON raised an action against Michael Forrest before the Sheriff of Forfarshire, concluding for damages on account of scandal and defamation.

Forrest objected to the jurisdiction of the Sheriff in such an action. But the Sheriff-Depute repelled the objection, and sustained the process.

Whereupon Forrest advocated, and pleaded, that in actions for scandal, the Commissaries possessed an exclusive jurisdiction. *Ersk. Lib. 1. Tit. 5. § 30.*

Crichton answered.—An action for verbal injury or scandal may originate either before the Supreme Court, the Sheriff, the Justices of the Peace, or the Magistrates of a burgh; and if there are any questions of slander, wherein the jurisdiction of the Consistorial Court is exclusive, it is restricted to those in which a palenode or ecclesiastical censure is required.

But that actions for verbal injury, by which fame is attacked, may commence before the Judge Ordinary, is now beyond controversy. *Bank. Lib. 1. Tit. 10. § 24.*

Accordingly an action for a verbal injury was sustained before the Supreme Court in the first instance; 15th February 1765, *Wilkie, No. 90. p. 7360.*

Such action has also been sustained before the Justices of Peace, 4th Feb. 1752, *Bell against Dundas, No. 325. p. 7609*;—and likewise before the Bailies of Edinburgh, 19th June 1750, *Hamilton, No. 384. p. 7682.*

The Lord Ordinary reported the case to the Court,

And the Court unanimously " Remitted to the Sheriff simpliciter."

Lord Ordinary, *Newton.* Act. *Jo. Cunningham.* Alt. *James L' Amy.*
Agents, Pat. Orr, W. S. and Rob. Speid, W. S. *Mackenzie, Clerk.*

J. W.

Fac. Coll. No. 17. p. 48.