

No 305. lost by the fraud, was not found competent to be insisted in before the Court of Session, but before the Exchequer. See APPENDIX.

*Fol. Dic. v. 1. p. 507.*

1743. *January 27.*

MITCHEL *against* The COMMISSIONERS of Excise, and BERVIE.

No 306.

Competitions with writs of extent are cognizable only in the court of exchequer.

JAMES STARK, collector of excise at Kirkcaldy, according to the usual way of collectors remitting the public money, gave L. 200 Sterling to John Bervie merchant in Kirkcaldy, for which he got a bill, drawn by Bervie upon Patrick Manderston merchant in Edinburgh, payable to the commissioners of excise. Shortly after Manderston's acceptance, his affairs going into disorder, his creditors arrested and pursued furthcomings before the Sheriff of Edinburgh, in which the commissioners appeared and produced an extent, comprehending the debts owing by the arrestees; and the Sheriff having preferred the Crown, the arresters presented a bill of advocation, which the LORDS found 'incompetent; and therefore refused the desire of the bill.'

*N. B.* The Sheriff had expressed his interlocutor wrong, when thereby he 'preferred the commissioners.' What he should have done was only to refuse to give decree of furthcoming in respect of the extent; but he was in the right in the main, and the application of the arresters should have been to the Exchequer, and not to the Court of Session; for all competitions with extents are only cognoscible in Exchequer.

*Fol. Dic. v. 3. p. 256. Kilkerran, (JURISDICTION.) No 2. p. 306.*

1747. *July 17.*

RAMSAY *against* ADDERTON.

No 307.

Trials for seizure of smuggled goods are competent only in the Court of Exchequer.

IN August 1743, Richard Adderton, surveyor of the customs at Ayr, made a seizure there from John Ramsay in Largs, of three casks of brandy, as being carried without a permit; of which Ramsay brought a complaint before the Justices of the Peace, wherein he set furth the fact as follows: That he having some days before purchased the said casks, lying at Largs, a place near Ayr, shortly after the same had been duly condemned, Mr Mollison collector of excise at Ayr agreed with him for carrying them to a friend of his at Edinburgh, and gave him a letter to be delivered to his friend, acquainting him what price he was to pay; that when he came to carry the casks from Largs, Alexander Bennet the excise-officer, under whose survey the Largs is, happened to be gone to Ayr, and as he the complainer was to pass through Ayr in his way, and did not suspect any inconveniency, having the collector's letter