

# APPENDIX.

## PART I.

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### SUMMARY APPLICATION.

1777. June 13.

**JAMES BELL, Deacon of the Incorporation of Weavers in Inverkeithing, against  
The MAGISTRATES and COUNCIL of the Burgh of Inverkeithing.**

A COMPETITION having arisen for the office of deacon of the weavers in the burgh of Inverkeithing, which turned upon the merits of an election made by the incorporation of weavers, at the meeting held for that purpose previous to Michaelmas 1776, at which James Bell and Francis Oatman, younger, were the candidates; and the matter having come in course under the cognizance of the Town Council, they gave the following deliverance, upon the 30th September. ‘ The Council having considered the minutes of election of the said incorporation of weavers, and the protests and objections against the voters *hinc inde*, ‘ and inaccuracy of the minutes of election alleged, occasioned by some of ‘ the members of said meeting forcibly seizing the book from the clerk wherein ‘ he was writing the minutes of election, and refusing to allow him to mark the ‘ procedure therein; and having heard parties at full length; before answer ‘ allows both parties to lodge in the clerk’s hands their several objections in ‘ writing, and to adduce a proof of their several allegations, against Tuesday ‘ the 15th day of October; and appoints all parties then to attend the ‘ Council.

Thereafter, James Bell protested to the Council, ‘ That he is legally elected ‘ deacon of the incorporation of weavers in Inverkeithing. But that notwithstanding said representation, the Council have refused to accept of him as ‘ deacon. Therefore the said James Bell protests against every step of the ‘ election this day, in regard that he is unjustly kept out of the council; and

**No. 1.**  
Whether a summary complaint be competent against the proceedings of a Town Council in their elections of councilors?

No. 1. ' that had he been present, he would have voted for Colonel Campbell as Pro-  
' vost; and thereupon took instruments.'

Upon the 15th of October, the following judgment was pronounced: ' The  
' Council having again this day considered the minutes of election of the Deacon  
' of the Weavers, certificate produced by Frances Oatman younger, and schedule  
' of protest; and having heard both parties, allows them to prove their several  
' allegations against the voters, and force used, and uproar raised at the elec-  
' tion, as mentioned in the minutes, schedule of protest, and condescendence;  
' and for that end appoint the Magistrates, Mr. Taylor, Mr. Cunninghame,  
' Mr. Swinton, or any four of them, as a committee, to take said proof, and  
' report the same Monday se'ennight.'

Against this procedure, Mr. Swinton protested for himself and his adherents, that the Council should in justice and equity have immediately proceeded in terms of their interlocutor of the 30th September last: To this protest Mr. Taylor, Lieutenant Stewart, Deacon Dale, Robert Miln, and William Flockhart adhered.

Upon the 28th of November 1776, James Bell preferred a petition and complaint to the Court of Session, founding on the authority of an act passed in the 16th year of Geo. II. entitled, *An act to explain and amend the laws touching elections in Scotland.* The petitioner stated, that the whole of the procedure in the Council allowing investigations and proofs to be reported at a distant day in order to delay his admission, was unprecedented and unwarrantable: That it was the duty of the Council instantly to receive the deacon who was chosen by a majority of the incorporation: And if any wrong had been committed by that majority in the course of the election, the proper method of obtaining redress was by complaint to the Court of Session. He therefore concluded, that he should be ordained furthwith to be received, and be allowed full costs of suit.

Upon advising the complaint, with the answers, replies, and duplies, " The  
" Lords dismiss the complaint as incompetent, reserving to the complainer to  
" insist for redress in the ordinary course of law, and all defences against the  
" same as accords. And decern."

Act. Blair.

Alt. Hlay Campbell.

Clerk, Tait.

W. W.

1806. February 7. HOME against SWINTON.

No. 2.  
Summary  
application  
incompetent  
against a

A PETITION and Complaint was presented at the instance of the Reverend George Home, minister of Ayton, and three other clergymen in Berwickshire, against John Swinton, Esq. of Swinton, the Sheriff-depute of that county, and