spouse to Halyburton. It was alleged, No process; because, by an Act of Sederunt in June 1672, All summonses are appointed to proceed upon twenty-one days' citation; and that no writer should insert any privilege, except the particular causes mentioned in the Act; whereof actions of executors against legators are none. It was answered, That the defenders live in Edinburgh; and there was a special privilege to cite parties in Edinburgh on twenty-four hours, which was neither mentioned nor taken off by the Act of Sederunt, and had been accustomed by the Lords since. It was replied, There was no exception, in the Act, of that privilege. The Lords found no process, but resolved to consider how far they would allow the privilege of citation within Edinburgh: whether only as to the second summons, this being the first summons; or when, by their own deliverance *in præsentia*, and not of course: But, having considered the Act the next day, they found it took not away the privilege of citation within Edinburgh, as to causes that, before that Act, were accustomed to be executed in Edinburgh, and that upon such time as was accustomed: And granted process.

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1674. *February* 11. MITCHEL of DALGAIN *against* The EARL of DUMFREIS.

MITCHEL of Dalgain, having apprised the lands of Auchincross upon umquhile Auchincross his debt, and the Earl of Dumfreis having right to an apprising for the heir's debt in a competition betwixt them; it was alleged for Mitchel, That his apprising was to be preferred, by the late Act of Parliament preferring diligences upon the defunct's debt, to diligences done upon the heir's proper debt. It was answered, That the Act bears such diligences for the defunct's debts as are done within three years after his decease; as this apprising was not. It was replied, That there were not three *anni utiles* past after the defunct's death, before Mitchell's apprising; there being surcease of justice a great part of the time. The Lords found, That the Act could only extend to diligences done within three years after the defunct's death.

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1674. *June* 12. The COMMISSIONERS of LINLITHGOWSHIRE *against* The HERITORS thereof.

SIR Walter Seatoun and James Dundass, having charged the heritors of Linlithgowshire for five pounds a-day for their commissioners' charges to Parliament, from the first day of Parliament to the last day thereof, conform to the late Act of Parliament; they suspend on these reasons:—1*mo*. That the Act bears expressly, "This allowance to be for the commissioner's attendance on the Parliament;" and, therefore, there is none due for such days and time as the commissioners were absent out of Edinburgh, or for such days as the Parliament sat and they were not present in Parliament. 2*do*. There can no more time be accounted than what the Parliament actually sat: but in recesses of Parliament, the chargers can have no allowance, unless they had been upon the Articles;

and none at all, when the Articles were not to sit, during the recess. It was answered, That the Act of Parliament, in the statutory part, gives this allowance, from the first day to the last day of Parliament, without any condition of being absent or present, which the Parliament can only quarrel; and there are no sederunts marked of Parliament, nor any thing in the Act relating thereto. The Lords found the reasons relevant thus, *viz.* That the days should be abated which the Commissioners were not in Edinburgh, or suburbs thereof, and so were not attending the Parliament; and for such recesses of Parliament that were of that endurance that the commissioners of Parliament could conveniently go home, do business, and return, according to the several distances of their dwelling, in which recesses the Articles were not to sit; but that they were to attend, if the Articles sat, to look to the interest of their shires, albeit they were not upon the Articles; and allowed no days to the commissioners for their coming to, or going from the Parliament, in respect of their near distance.

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1674. *June* 23. Sir John Schaw *against* The Feuars of Pasley.

Sir John Schaw having charged certain feuars in Pasley, for their proportion of his charges, as commissioner to the Parliament, upon the Act of Parliament 1661, "Declaring all the vassals of the king and prince, whether the temporality or spirituality, to be liable to the charges of commissioners to Parliament;" which the feuars suspend, on this reason,—That the foresaid Act is derogated by a posterior Act, restoring the bishops to be the third estate; so that they represent the whole ecclesiastical estate: The Lords found, That the bishops did only represent their own vassals; and that the suspenders, being only vassals of the abbacy of Pasley, not belonging to any bishoprick, were liable for their proportion.

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1674. *July* 16. The Town of Inverness *against* Forbes.

In the declarator at the instance of the feuars holding of the Town of Inverness, against the Town, decided the 14th day of July instant, it was particularly alleged against Cullodin, That he could not be declared free of the private stents of the Town, because the Town had obtained decreet against him, decerning him, "In all time coming, to be liable to the Town's stents, for their particular use, and that upon his own consent;" for the decreet bears, "that he was judicially present, and consented;" so that, being both a decreet of consent, and *in foro contradictorio* upon a full debate, it was sufficient against him. It was answered, That the said decreet was a decreet of suspension of a stent then imposed, extending to 35 merks; and, by the decreet, it appears that Cullodin consented only to the payment of the 35 merks; which in the dispute bears expressly, "Providing it were no preparative in time coming;" and bears, "That the Lords, of consent, found the letters orderly proceeded for 35 merks;"