

No 72. and enticed her, for damages, which was the first instance of such process in this country.

THE LORDS, 17th June 1743, ' Found the action competent ;' and upon advising the proof on the 20th January 1744, ' Found the libel proved, and the ' defender liable to the pursuer in the expenses of the process of divorce, and ' of the appeal to the House of Lords, which followed thereupon, and of the ' expenses of this process ; and remitted to the Ordinary in the cause to examine the accounts of these expenses, and to report the same to the Lords ; ' and ordained the pursuer to give in a condescence of what damages he ' had sustained through the loss of his trade and business, and to condescend ' on the method whereby he could liquidate and instruct the same.'

*Kilkerran, (REPARATION.) No 2. p. 484.*

1744. July 25. ROBERTSON *against* JUSTICES OF PEACE OF STIRLINGSHIRE.

No 73. ROBERTSON having been adjudged as a recruit, in terms of an act for the more speedy recruiting of his Majesty's forces, presented a bill of suspension, as he did not fall under the description of the act. THE LORDS, in consideration that the power of adjudging men for certain purposes, was given to the commissioners named in that act, found that a suspension was not competent ; and a reclaiming petition being presented, setting forth, that supposing the Lords of Session were not competent judges in matters of this kind, if the person was adjudged by those who had due power, yet it was deficient in this case, where the persons who had adjudged Robertson could not legally do it, as they were not qualified in terms of the said act, and had no power of adjudging ; the LORDS adhered to their former interlocutor, and found, that as they had no jurisdiction in questions relating to the act of Parliament, they could not stop the execution of it, or enquire whether the judges were duly qualified or not.

*Fol. Dic. v. 3. p. 342.*

1745. February 2. CAMPBELL, Petitioner.

No 74. UPON a petition of Archibald Campbell of Ellersly writer to the signet, whose vote for a member of Parliament, on the title of the said lands, was objected to by some of the freeholders of the shire of Renfrew, my Lord Drummore declining to judge, as being brother-in-law to Sir John Shaw of Greenock, one of the complainers ; the LORDS were of opinion, that as it was not a case for any private interest, but a complaint brought by a member of a sort of community, on the account of the public, his nearest relations were competent judges ; and therefore repelled the declinature.

*D. Falconer, v. 1. p. 61.*