

those privileges, yet found the former protest for remeid of law could not extend to this case, being for another year, and could neither stop procedure nor execution till the parliament should interpose their authority; which they had not done as to this new process for another year.

*Fol. Dic. v. 1. p. 47. Fountainball, v. 2. p. 589.*

\*\*\* The following discussion, mentioned by Forbes, relative to the costs awarded in the House of Lords, took place between the same parties.

THE Lord and Lady Kinnaird having protested for remeid of law before the House of Peers, against a decret of the Session, preferring Mistress Lyon to them, in a process of furthcoming at her instance against the Earl of Aboyne and his tenants; and lodged their protest before that Honourable House: She obtained judgment there, ordaining the appeal to be dismissed the House, and the appellants to pay, or cause to be paid, to her the sum of forty pounds Sterling for her costs and charges caused by the said appeal; and ordaining the Lords of Session to order these costs to be levied by the same rules and methods, as costs given by their Lordships are to be levied. The LORDS, upon Mistress Lyon's application by bill, with the judgment and order of the House of Peers produced, granted warrant for letters of horning at her instance against the said Lord and Lady Kinnaird, for levying the forty pound Sterling of costs and charges, and such other diligence as usually followeth upon their Lordships decreets and sentences. Albeit, it was alleged for the Lord and Lady Kinnaird, That no such summary warrant could be granted, but that Mistress Lyon behoved to insist, *via ordinaria*, by a process, for her said costs.

*Forbes, p. 506.*

1723. July.

Muir against HEPBURN of Nunraw.

MR ARCHIBALD MUIR, minister of the gospel, was deposed by the synod of Lothian; the sentence was appealed, and affirmed by the next assembly; The LORDS found, That the sentence of the assembly behoved to operate *retro*, from the date of the sentence affirmed; and that Mr Muir ceased to have any claim for stipend, from that time, notwithstanding of the appeal.

*Fol. Dic. v. 1. p. 47.*

1746. December.

THE LORDS found, that an appeal from a Court of Justices of Peace to the Quarter Sessions does not stop procedure, but only final execution; because it would otherwise be impossible to get a cause finished, if parties might appeal from every interlocutory sentence, and thereby stop procedure till the Quarter Sessions determined a particular point, however trifling.

*Fol. Dic. v. 3. p. 31. MS.*

No 2.

The Court of Session will grant warrant for horning, for levying the costs awarded by the House of Lords in an appeal.

No 3.

A sentence of a synod appealed from to the assembly, and affirmed; operated as depriving the deposed minister of the stipend, from its date, notwithstanding of the appeal.

No 4.

An appeal, from a Court of Justices of Peace to the Quarter Sessions, does not stop procedure, but only final execution.