

passes without any farther, if after the year I may point, or if I must give a new charge before I can point, seeing the first charge may be presumed to be forgot.

*Advocates' MS. No. 292, § 4, folio 123.*

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1672. *January 10.* JAMES JOHNSTON *against* LORD BELHAVEN.

MY Lord Belhaven being pursued upon a bond of his father's by James Johnston, he ALLEGED the same was prescribed, because nothing was done thereupon within forty years. REPLIED, the same was registrate within the forty years.

The Lords found registration allenary not a sufficient interruption of prescription. *Vide* somewhat like in Dury, *27th November 1630, Laird of Lauderdale against Colmeslie.*

*Advocates' MS. No. 293, folio 123.*

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1672. *January.*

ON being pursued to pay a sum, it was ALLEGED, No process upon the second summons, because executed against the defender to compear within twenty-four hours; which, though it be lawful where the party summoned dwells within the town of Edinburgh, yet cannot be extended to the Canongate, where this defender was the time of the giving the citation, and being a stranger was going to his house: and albeit the Canongate lie within the privileges and liberties of Edinburgh, yet that is not enough to extend this privilege of summoning upon twenty-four hours to them, else the same might be said of Leith, which were absurd. ANSWERED, *1mo*, The Canongate lies within the town's liberties. *2do*, The reason of the privilege is the propinquity and nearness to the Court of Justice, which holds as well in the Canongate as in Edinburgh; and on this account if one within Lothian be cited to compear within three days the citation will be sustained.

The Lords found him lawfully cited, and extended it to the Canongate.

*L. 139. D. de V. Significatione, Sub nomine urbis veniunt suburbia; L. 2. ff. de V. significatione.* And in 1570 a Parliament being summoned to compear at Edinburgh, it was resolved by the lawyers that it might legally hold in the Canongate. See Spotswood *ad num.* 1570, page 252.

*Advocates' MS. No. 294, folio 123.*

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1672. *January 10.* The EARL OF NITHSDALE *against* the TENANTS OF DUNCOW.

IT WAS ALLEGED against a pursuit, that the pursuer must tine his action, conform to the 219 act of Parliament in 1594, declaring that whatsoever pursuer