

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.

*Vol. II, Page 247.*

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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.

*Vol. II, Page 265.*

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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 :—*1mo.* 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. *2do.* 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 ;