

courts—the remedy for those aggrieved by their decisions, by summary complaint to the COURT of SESSION—and the penalty if such complaint is dismissed—the statute 16th Geo II. cap. 11. is the rule in all those particulars.

Corruption and perjury in the electors are restrained by penalties contained in act 2d, Geo. II. cap. 24.; and the penalty for the Clerk of Court making a false return, is statuted by act 7th, Geo. II. cap. 16.

Fol. Dic. v. 3. p. 401.

DIVISION I.

Privileges.

No 1. 1687. *July.* TOUCH *against* The HERITORS of Stirlingshire.

FOUND, That heritors and liferenters holding of the King's vassals, ought not to contribute with these their immediate superiors, for the fees of commissioners to the Parliament, seeing they had no vote in the election, and should be as free as the vassals of noblemen and bishops, notwithstanding of the general clause in the late act of Parliament. (1681.)

Fol. Dic. v. 1. p. 573. Harcarse, (SUMMONS.) No 932. p. 261.

No 2. 1708. *February 17.* LUDOVICK GRANT of that Ilk, *against* The EARL of SUTHERLAND.

IN a process at the instance of the Laird of Grant, against The Earl of Sutherland, the LORDS did not sustain the privilege of a member of the British Parliament, which exempts from legal pursuits in the time of Parliament, to hinder circumduction of the term against the Earl of Sutherland, for not reporting a commission which an advocate compearing for his Lordship took a day for; but they superseded extract till the 1st of June.

Fol. Dic. v. 1. p. 572. Forbes, p. 242.

* * * Fountainhall reports this case.

No 2.

THE Lady Dowager of Down being debtor to the Laird of Grant in a considerable sum of money by bond, and being thereafter married to the Earl of Sutherland, and now deceased, Grant pursues Sutherland for payment of her debt, on these grounds, that he was a vicious intromitter with the Countess's jewels and paraphernalia, to a great value, and was also *lucratus* by the marriage, over and above what may be reputed a competency *ad sustinenda onera matrimonii*, and to defray the expense of the marriage and her funerals; and having referred the whole to the Earl's oath, who being at London, a commission was craved by his lawyers to depone here, which was directed to be executed by the Earl of Seafield, Chancellor of North Britain, but being neglected to be reported, the term was circumduced against the Earl for not deponing; whereupon a bill was given in for his Lordship, representing, that he being a member of the Parliament of Great Britain, he was absent *reipublicæ causa*, and could not be convened in any cause, or obliged to answer during his attendance there. *Answered, imo*, They knew no such privilege competent to the Peers sent up, for they had it not when the Parliament of Scotland used to sit; and at most, it could only extend to new actions raised against them, and not to such as were depending against them before; *2do*, His procurator had craved a commission, and did plead no such privilege, *et quilibet potest renuntiare favori pro se introducto*, and so he cannot retract now. *Replied*, The advocate had no mandate from him to do it. THE LORDS would not repon him now after a commission sought, but stopped extracting of the decret of circumduction till the 10th of June, that my Lord might either depone at home, or on a commission, if he pleased; to have loosed the circumduction, was to make Grant lose his only mean of probation, if my Lord died *medio tempore*; whereas now, in case of his decease before deponing, the decret stands firm against him; by which middle temperament, the LORDS shunned deciding whether they had the privilege of not being obliged to answer as *absentes reipublicæ causa*.

Fountainhall, v. 2. p. 432.

1709. January 5. LADY GREENOCK against Sir JOHN SHAW of Greenock.

No 3.

THE LORDS ordered a process at the Lady's instance against her son, Sir John Shaw, to be enrolled, albeit he was absent at London as a Member of Parliament, and claimed his privilege; because, the privilege that Members of Parliament cannot, during the sitting thereof, be sued at law, hinders not to expedite the preliminaries or preparatories of processes, which pass of course.

June 22.—THE LORDS, January 1709, having ordained a process at the instance of the Lady Greenock and her son, to be enrolled, albeit the defender was