

1711. *November 9.* SIR ANDREW KENNEDY *against* SIR ALEXANDER CUMING.

SIR ANDREW KENNEDY having applied to the Lords by bill, representing that he had caused duly cite Sir Alexander Cuming, to appear against the third of this instant now past, to answer summarily to the petitioner's claim of expenses, which the House of Peers ordered to be directed and taxed in the session, (*ut supra* July 21st last) and craving that the Lords would proceed therein, and determine according to the instructions he was ready to offer: The Lords found, that Sir Alexander Cuming being a Member of Parliament, was not bound to answer to the petitioner's claim, during the continuance of his privilege of Parliament; notwithstanding the order of the House of Peers.

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1711. *December 27.* JAMES REID and JOHN KER, Merchants in Edinburgh, *against* The MAGISTRATES of the said Burgh, and their TACKSMEN of the impost upon Foreign Liquors.

IN the pursuit at the instance of James Reid and John Ker, against the tacksmen of the town of Edinburgh's impost upon foreign liquors, for their unwarrantable seizing a certain quantity of English ale and beer belonging to them, on account of their not paying a penny Sterling of impost on the Scottish pint, imposed on foreign ale and beer in favours of the town, by a gift from the sovereign, anno 1671, ratified in Parliament in the year 1672: the Lords found the town of Edinburgh's right of exacting a duty on English ale and beer, being a private right, is in the same state since the Union as it was before.

Albeit it was ALLEGED for the pursuers,—English ale and beer cannot be called foreign now, since the Union; by the fourth article whereof there is a communication of trade, navigation, and all other rights, privileges, or advantages, that do or may belong to the subjects of either kingdom. So that, as a Scotsman may vend the commodities of Scotland in England, an Englishman may do the like here; and, consequently, may import English ale into Scotland free of duty. For albeit private rights not interfering with the said article be reserved by the treaty, as the right of scavage and portage in London, the two pennies on the pint, and merk upon the pack in Edinburgh, which do equally burden the subjects of either kingdom: if more be exacted upon the pint of English ale imported to Edinburgh, than upon the pint of Scottish imported ale, the absolute equality designed by the treaty is broke. Now that the duty of package and scavage belonging to London is equally exacted from Englishmen, not being burgesses of the city, as from North-Britons, or persons living in Scotland; appears by a certificate from the mayor and aldermen of London, under the seal of their city, dated at Guildhall, May 6, 1712.

In respect it was ANSWERED for the defenders,—Private rights of the subjects of either kingdom remain in the same state after the Union as they were before, con-