

from her grandfather, did insist against the Earl of Glasgow, in respect he contravened the obligations in his said back-bond; and in this process a diligence being granted against the Earl of Bute for exhibiting the said disposition, and the first diligence being returned, and the second granted, this being in effect a caption, which could not be put in execution against the Earl of Bute, being a Peer, a petition is given in for the pursuer, craving that the LORDS would adhibit a remedy, and founding on a late practice against the Earl of Kincardine, where the LORDS assigned a certain day to exhibit the writs called under a penalty equal to the damage that the pursuers incur through the failure in exhibiting; and, there being no answer to the petition,

No 5.

'THE LORDS grant diligence to the petitioner to cite the Earl to compare within three weeks, or thereby, to exhibit the writs called for, under the penalty of L. 50 Sterling; but prejudice of the petitioner's claim of further damages, as accords of the law.'

Act. *John Dundass.*Alt. *Dun. Forbes.*Clerk, *ut supra.**Bruce, v. 2. No 43. p. 58.*

1756. July 29.

M'DONALD *against* a WIDOW of a PEER.

THE widow of a Peer being debtor to M'Donald in a certain sum of money, due by bill, he raised and executed a horning against her, and afterwards applied for letters of caption.

No 6.

The Lord Ordinary reported the bill to the LORDS; who were of opinion, that the widow of a Peer was intitled to all the privileges of a Peer, and therefore,

"They refused the bill."

Fac. Col. No 212. p. 309.

* * * See the case of Campbell against Countess and Earl of Fife, No. 211. p. 9404. *voce* OATH OF PARTY.

See APPENDIX.