

No 20. found liable in the costs of suit awarded against his employer, he concludes in these words, 'Such factor is likewise bound, for the same reason, to answer the defender's claim in a reconvention or counter action.'

'THE LORDS repelled the defences, and found the defenders liable, conjunctly and severally, in damages and expenses.'

Act: *Lockhart.*

Alt. *Rae.*

A. W.

Fol. Dic. v. 3. p. 198. Fac. Col. No 113. p. 263.

No 21.

1778. *March 6.* M'KAY against BARCLAY and Others.

M'KAY was decerned to pay the expenses of process by a judgment of the Inner-house, and the account was modified. A reclaiming petition was presented for M'Kay, praying to alter the interlocutor, in so far as to modify the account to a smaller sum. THE COURT refused the petition, as falling within the intendment of the act of sederunt 1st February 1715, § 4. discharging reclaiming petitions against judgments of the Inner-house awarding expenses.

G. Buchan-Hepburn.

Fac. Col. No 20. p. 35.

S E C T. IV.

Personal Charges.—Decrees of Constitution.—Discharge and Conveyance.—Costs in the House Lords.

No 22.

1748. *July 23.* MACKAIL and MITCHELL against BLACKWOOD.

THOUGH where only expenses are found due, the Lords are not in use to sustain the parties' personal charges as expense, yet where *damage* and expense is found due, the parties' personal charges are admitted as damage no less than any other loss.

Fol. Dic. v. 3. p. 199. Kilkerran, (EXPENSES.) No 4. p. 181.

No 23.

Expenses of a decree of constitution never given.

1749. *July 20.* FERGUSSON against The OFFICERS of STATE.

JAMES FERGUSSON writer in Ayr, as assignee of William Cunninghame of Auchinskeith, having pursued and obtained a decree of constitution *declara-*