

commission granted by King James, produced in process ; and that the said Act of Parliament did only alter the endurance of the ann,—that it could extend no further than a term's revenue after the incumbent's death ; whereas, before, it might have reached a whole year, because, by the canon law, *annus inceptus habetur pro completo*. The Lords found, That the bishop had an ann, by virtue of King James's Act ; but found he had no right to the quots of testaments but such as were actually confirmed or decerned ; but did not determine whether those actually confirmed after his death, within the ann, would belong to him.

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1674. *December 5.* CHARLES OLIPHANT *against* CURRIE.

CHARLES Oliphant, being infest in some lands, by an apprising, pursues Provost Currie, and others, for maills and duties ; who alleged, No process ; because the second summons is only on three days, which should have been on six. It was answered, That, by the constant consuetude, all parties may be cited, being found within Edinburgh or the suburbs, on twenty-four hours ; in which there was a late decision, produced at the instance of Sir James Cockburn against Lumsdane, who was cited in the Cannongate. It was replied, That the Lords, by their late Act of Sederunt, had declared the continuation of the diets of summons, without any exception of this privilege. The Lords, considering that there hath been such a custom even extended to those that were occasionally in Edinburgh, ordained an addition to be made to the Act of Sederunt, excepting citations within Edinburgh, and the contiguous suburbs ; but only against the inhabitants there ; for, as to strangers, who are not presumed to have their writs, or other probation, with them, they thought it just that the *legales induciæ*, competent by law, should be free for them.

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1675. *January 18.* The COLLECTOR of the KING and LORDS' TAXATION *against* THOMAS ENGLISH.

THOMAS English, younger of Straitoun, being apprehended, by caption, for payment of the rests of the taxations 1633 ; Thomas English, elder, his father, grants bond either to pay these taxations or to produce discharges, or otherwise the person of the said Thomas English, younger, betwixt and such a certain day. Being charged thereupon, he suspends, on this reason, That his bond is alternative, and thereby he hath his election, and is willing to produce his son, which is the third member of the alternative. The charger answered, That common rule in all alternatives, *electio est debitoris*, hath these limitations ; 1^{mo}. if there be not *mora* ; but here the suspender's offer to produce his son is *post moram*, there being a determinate term and time appointed by the bond to produce him, which is long since past. 2^{do}. Producing of the son is not receivable, *nisi rebus integris*, although it were at the term ; but now the son is denuded of his estate, and doth pretend that he is free by his Majesty's proclamation re-