1692. *November* 24. Duncan Robertson *against* Colin Campbell.

No 27.

Duncan Robertson against Colin Gampbell, about the Sheriff-clerkship of Argyle. The Lords repelled the first dilator, that there were not free days by the copy they got from the messenger, in respect his execution produced was formal, which was found to be the standard and rule; and also did not regard that the execution bore only the within designed parties, though it was not indorsed on the back of the summons, but on a paper apart, seeing that was most required, when executions were used as interruptions; and here Mr Duncan was promised summar dispatch. They also repelled the second dilator, That the secretaries could not be pursuers, there being no factory produced for them; for, 1*mo*, They were absent, *reipublicæ causa*; 2*do*, Mr Duncan's interest alone was sufficient to sustain the process.

Fountainhall, v. 1. *p.* 522.

1694. *November* 23. Mr John Rattry *against* The Earl of Airly.

No 28.
Effect of a blank summons.

This was a pursuit on a bond granted by Airly's father, and sundry cautioners, for L. 1200, on the passive titles. The defence was prescription. *Answered*, Interruption within the 40 years by a summons executed. *Replied*, The summons is yet blank, unlibelled and unfilled up; and a summons blank is no summons. *Duplied*, Though this bond was not expressly libelled, yet it bore both before the will and after, that he and the other cautioner were convened to make payment of the debt upon all the passive titles; and it was marked by the clerk, called, and the advocate's name who compeared for the defender, which is a judicial act; and interruption being favourable, *quævis insinuatio sufficit*, though informal, especially seeing they could condescend upon no other ground of debt between the pursuers and defenders, save this bond only; and the pursuer was content to renounce all other, and so that was sufficient application to this specific debt, and a document taken thereon within the forty years; and less has been sustained for an interruption, as in the case of the Earl of Marishal and Leith, 14th July 1669, No 8. p. 10323.; and in the case of Muir *contra* Lawson, 11th February 1673, No 417. p. 11238, The Lords ordained the parties to inform, it being of consequense, and no informations had been given in; but the foresaid reasoning occurred to the Lords amongst themselves.

Fountainhall, v. 1. *p.* 644.