

SUMMARY APPLICATION.

1677. November 15. THOMSON *against* ROSS.

No. I.

THE Lords, upon a summary application, took trial for a forgery, being in a poor man's cause.

Fol. Dic. v. 2. p. 402. Fountainhall MS.

* * This case is No. 15. p. 9397. *voce* OATH OF PARTY.

1681. December 21. The LAIRD OF LAMERTOUN *against* The EARL OF HOME.

No. 2.

There being a bill of complaint given in by the Laird of Lamertoun against the Earl of Home, making mention, That he was in possession of several lands of the barony of Home, by virtue of infeftments; that the Earl of Home had held courts, and decerned the tenants to make payment to him of the mails and duties, notwithstanding there were several suspensions raised at his and the tenants' instance of the former decreets obtained by the Earl in his said Baron Court, for other terms preceding, which suspensions the Earl hath never discussed; and it being alleged for the Earl, That albeit he was cited upon the said complaint by a Macer, yet he was not obliged to answer without a Signet letter, he not being a member of the College of Justice; and it being replied, That this being a contempt done to the Lords' authority, the former suspensions being not only for the terms specially mentioned therein, but in time coming, he ought summarily to answer to the said complaint; the Lords ordained letters of horning to pass against the Earl, ordaining him to find caution to desist from troubling the tenants, until the discussing of the suspensions.

Any person, though not a member of the College of Justice, is bound to answer summarily a complaint for contempt of the Lords' authority.

Fol. Dic. v. 2. p. 402. P. Falconer, No. 12. p. 5.

1700. February. HAMILTON *against* LORD ELIBANK.

No. 3.

A minor, with concurrence of his friends, craving by bill, that his tutors might be removed, as suspected, for not making inventories in the terms of the act of Parliament, the Lords refused the desire of the bill, and remitted them *ad actionem*

- No. 3. *ordinariam de removendo suspecto tutore*, although it would get summary dispatch when raised and executed. See APPENDIX.

Fol. Dic. v. 2. p. 402. Fountainhall.

No. 4.

1706. July 16.

A. against B.

Some tutors to a minor gave in a petition, craving the Lords' authority to a sale of some of their pupil's lands, lying in Anstruther, seeing the necessity of debt was evident, and the smallness of the subject could not bear a process. The Lords rejected the bill, as irregular, and found minors' lands could not be sold judicially, but upon a cognition and trial, comparing the rental and debts, and that by way of process only, and not summarily on a bill; and thought the drawers of such informal petitions, contrary to our fixed stiles and customs, deserved to be reprimanded and rebuked.

Fol. Dic. v. 2. p. 402. Fountainhall, v. 2. p. 343.

1714. July 25. SIR ANDREW KENNEDY *against* SIR ALEXANDER CUMMING.

No. 5.

The House of Lords having reversed a decree of the Court of Session, and ordered that that Court should tax the appellant's expenses; found, that this might be done by summary application. See No. 9.

Sir Alexander Cumming of Coulter having obtained a gift of the conservator's office from the Queen, and having reduced Sir Andrew Kennedy's prior gift, on malversations; and this by an appeal being tabled before the House of Peers, they, in May last, reversed the sentence of the Lords, and reponed Sir Andrew to his place, and gave order that the Lords of Session should tax and modify Sir Andrew's expenses conform to the custom of their Court; who accordingly applied, and gave in an account of £.1500 Sterling it had stood him by many voyages, to Holland, England, &c. Alleged for Sir Alexander, That there being no process depending betwixt them, but finally ended by an extracted decret, he was no more in the field, till he were of new cited and got the *inducia legales* to answer; and it could never be the meaning of the Parliament to condemn him in costs and damages unheard. Answered, It were a strange thing if a new process must be raised for expenses; and he can never pretend surprise; for he was present when the Peers reversed his decree, and adjudged the expenses; and Sir Andrew, ere he departed from London, intimated to him, at his dwelling-house, (he not appearing himself), that he would apply to the Lords; which obliged him either to come home and defend, or send a mandate; and the case was to be considered as if it were yet depending before the Lords, and then no citation is requisite. The Lords, by plurality, found no necessity of a new process, but that he behoved to be cited on a diligence to answer summarily, without abiding the course of the roll to the complaint.

Mrs. Lyon got summary execution against Aboyn and Kinnaird on the discussing of her appeal; but there the Peers had expressly taxed her expenses to £.40 Sterling. So there was nothing left to the Lords but the application and the executive part, by giving horning on fifteen days thereon.

Fol. Dic. v. 2. p. 402. Fountainhall, v. 2. p. 665.