No 474. the interlocutor has gone too far in finding them proved, seeing the charter and sasine are but dropt in lately, and were never produced *in modum probationis*; and though they were argued upon as lying in process, yet that was only hypothetically, *esto* they were there, yet they did not infer the conclusion drawn from them, and therefore the most that the Marquis can demand, is an act to prove these deeds of acceptance. *Answered*, The Earl's mother's contract could never be a title of possession, it not being made a real right, but standing *in nudis terminis* of a personal obligement. And as to his dividing the disposition, that contradicts all the principles of law; for he cannot approbate a writ in part, and repudiate the same writ *quoad* another part of it. To the *second*, it is wondered, how the Earl comes to deny what he never controverted in the whole debate, his being infeft, and in possession, since ever his minority. The Lords adhered to the interlocutor *quoad* the relevancy; but as to the writs produced for proving the same, they continued the advising till June next. The Earl of Forfar protested for remedy of law to the Parliament.

Fountainhall, v. 2. p. 63. & 150.

1704. *February* 17. Johnston *against* Kennedy.

No 475.

Interruption by executing an inhibibtion upon the ground of debt, falls not under act 10th, Parl. 1669.

Fol. Dic. v. 2. p. 131. Fountainhall.

*** This case is No 429. p. 11259.

1705. *February* 2. Wilson *against* Innes of Auchluncart.

No 476.

The acts 1669 and 1685, requiring interruptions to be renewed, relate only to the case of citations; but where processes are further prosecuted to compearance and judicial acts, the same will make a sufficient interruption for 40 years, without necessity of being renewed.

Fol. Dic. v. 2. p. 132. Dalrymple.

*** This case is No 181. p. 10974.

1706. *January* 23.
Earl of Sutherland *against* Earls of Crawford, Errol, and Marischal.

No 477.

In a declarator of precedency betwixt two Peers, the one founding on prescription, and the other opponing interruption by a citation; the Lords found, that