

were expired. Besides, they doubted if one diet in such a summons of adjudication was sufficient; (see Form of Process.) They thought it was not, being confessedly a *first adjudication*; and, further, that, if the debtor compeared and took a day to produce a progress, there was neither law nor equity in refusing him that alternative.

They refused the petition unanimously.

---

1768. June 18.

M'LEAN, Petitioner.

IN this case the Lords granted warrant to enrol a second adjudication, although the second diet was not run. It was to bring it within year and day of a first adjudication. The year was run, but not the day.

---

A SUMMONS, having been raised against a person furth of Scotland, was executed at market-cross of Edinburgh, pier and shore of Leith, and an arrestment raised and executed on the dependance. The pursuer, not adverting sufficiently to the *inducia*, caused call the summons before the diets were run; and, having enrolled it, he obtained decret in absence, which went to the minute-book before the mistake was discovered. When discovered he enrolled the cause; and having stated the fact to the Ordinary, (Lord Ankerville,) his Lordship, (18th February 1777,) recalled the decret, and allowed the summons to be called of new,—so soon as the *inducia* were run. The propriety of this procedure may be doubted.

---

A SUMMONS, having been raised against two persons, was called only against one of them, and, being enrolled, decret was obtained. The mistake being discovered, and stated by Lord Stonefield to the Lords, they allowed the summons to be called against the other defender in common form, in order that he also might be proceeded against.

---

---