

rest; and as for his son's disposition, it imports not, being fraudulent, after the contracting of the other creditors' debts, and containing a clause that the father might burden. It was answered, That the Act of Parliament 1621 hindered no preference of creditors, except only as to those who had done diligence; and, albeit the son's infestment be with the father's power to burden, yet the son having become caution in contemplation of that right, he might justly have taken a disposition from his father to relieve him, even though he were insolvent; and so might justly, upon the disposition he had, prefer the creditors to whom he became cautioner; neither was his father here a notorious bankrupt, or the deed done *post fugam*. The Lords preferred the creditors, conform to the bond, unless it were alleged that the father had been a notorious bankrupt, or the deed *post fugam*; in which case, they would hear the parties thereanent.

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1672. *January 13.* SIR JAMES COCKBURN *against* \_\_\_\_\_.

SIR James Cockburn having pursued \_\_\_\_\_, and having cited him by the second summons, upon twenty-four hours, being found in the Canongate; —it was alleged, That a citation upon twenty-four hours was never further extended than against persons found in Edinburgh; which cannot extend to any suburbs. It was answered, That the sustaining of such citations was no privilege of Edinburgh, but only in respect of the propinquity of the place; and, by Edinburgh, it was never found that the city was only meant, but all that passes under that common designation, which comprehends the suburbs. The Lords sustained the citation.

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1672. *January 13.* BURNSIDE *against* BRUCE.

BURNSIDE having charged Bruce upon a bond, he suspends, and alleges Payment; and refers the same to the charger's oath: and, when he is deponing, he produces a ticket of 100 merks, and of ten dollars, in part of payment of a greater sum; yet the charger depones, That the whole sum was resting, and that this ticket was a part of another sum. The Lords rejected the quality; and found, That the deponer behoved to instruct that there was another debt resting at the time.

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1672. *January 24.* ALEXANDER LORRAN *against* HENRY HUME.

ALEXANDER Lorrان having a gift, from the bishop of Edinburgh, to be procurator-fiscal of the commissariat of Lawder, pursues Mr Henry Hume to admit.