

## CITATION.

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1742. *December 10.*    MAGISTRATES OF EDINBURGH *against* CLARKSON.

No. 1.

CITATION upon the late act concerning tumults of the Town of Edinburgh, by citing the Magistrates only, without citing the Council, was found null; although the act requires only citing the Magistrates in common form. Altered, and the objection repelled.

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## CLAUSE.

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1739. *July 25.*    CREDITORS OF WILLIAM THOMSON.

No. 1.

MR JOHN MONTGOMERY, a creditor of Thomson's, infest in his houses in Edinburgh, consented to another infestment given by him to Sir James Carmichael in the said houses, and his lands in Fife, provided that the consent should not import any diminution of the sum due to him, nor prejudice of his right, except Sir James's preference for his payment; whereon Sir James was infest; and in the scheme of division the question was, Whether Sir James should draw his payment proportionally out of the lands in Fife and houses in Edinburgh, which would be beneficial to the other creditors who had affected these lands in Fife, and prejudicial to Mr John Montgomery? or if he should draw his whole payment out of the lands in Fife, on which he was preferred *primo loco*, whereby Mr Montgomery would draw his payment out of the houses in Edinburgh? The Lords found that Sir James must take his payment wholly out of the lands in Fife. See RANKING.