

## SUMMARY PROCESS.

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1666. *June 12.*      SINCLAIR of Bryme, Supplicant.

No. 1.

SINCLAIR of Bryme gave in a bill, bearing, that he had obtained suspension of all execution, and specially of apprising, which he presented at the time of the apprising, and yet the messenger and writer went on, and apprised; and therefore craved, that the apprising might be stopped at the registers, and seals.

The Lords refused to grant the desire of the bill, without there had been a summons against the appriser past the signet; but would not upon a bill cite parties out of the town, having no dependence on the House, nor annul, or hinder any pretended right they had, without citing of them, but resolved to take in consideration the contempt of the messenger and writer, at the discussing of the cause.

*Stair, v. 1. p. 375.*

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1680. *July 13.*      HOME *against* HOME.

No. 2.

In the count and reckoning betwixt Sir Alexander Home of Renton, and his brother Mr. Patrick, the Lords allowed Mr. Patrick summarily to prove the tenor of a bond of his father's which he had paid and lost, and produced an assignation to himself of it, he proving by the witnesses inserted in the assignation, that they saw the bond in the cedent's and assignee's hands, after Renton's decease, to take off the presumption, that Renton had paid and retired it himself; though those summary tenors are only allowed where writs are lost in processes by advocates' clerks, agents, &c. *2dly*, The Lords found Mr. Patrick liable for the rent of some acres that lay waste, though he alleged the custom was to keep them waste for the good of the rest of the lands, unless he proved that custom *prout de jure*, or gave his oath he had used diligence to let them, by affixing placards at public places, or by intimation to his brother Sir Alexander to provide a tenant.

*Fol. Dic. v. 2. p. 405. Fountainhall MS.*

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1680. *July 29.*      The COUNTESS of HOME *against* The EARL of HOME.

No. 3.

The Lords sustained summary diligence without enrolling, (as they had done formerly betwixt Anderson and the Lord Catchcart, and Mr. Harry Home and Home of Renton) though there was no prior adjudications on the estate on the late act of Parliament 1672, because there were adjudications past upon his renunciation to be heir.

*Fol. Dic. v. 2. p. 405. Fountainhall MS.*