litis, this might be granted; but refused it as to principal writs, which could not be refused to parties, except where they were quarrelled as false.

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1692. *December* 29. MAJOR HEW BUNTAIN *against* The EARL OF ABERDEEN.

MAJOR HEW BUNTAIN against the Earl of Aberdeen; who ALLEGED he should have applied to the King or Treasury, in 1682, and gotten payment of his dues for his service, and cannot recur now against the Earl, who uplifted them by warrant of the King's letter.

The Lords found it relevant for Major Buntain to prove, that it was the custom of the keepers of the Great Seal to get the third of the Chancellor's dues, and that this was a distinct perquisite of the office from furnishing the war, and appending the Seal; and admitted to his probation, that the Earl of Aberdeen uplifted this from Enterkine, *scripto vel juramento*. Some of the Lords inclined to modify to less, in regard Major Buntain was then at no trouble, whereas in the Duke of Rothes's time, he was a domestic, and did other services for it.

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1692. *December* 29. MACKMICHAN *against* ADAIR.

MACKMICHAN contra Adair. The Lords remitted the cause, with this instruction that the pursuer should prove *quomodo desiit possidere*, whether by stealing, straying, or the like; that it may appear it was not by a sale, donation, or the like titles transmitting dominion; and farther proving that the horse was in the defender's possession the time of the citation, or that he *dolo desiit possidere* before. For if they had transmitted him before the citation, then the *rei vindicatio* ceased, he being no more possessor. *Vol. I. page* 540.

1692. *November* 30 *and December* 30. ROBERT STEWART of Innerwhat, *against* The MASTER OF SALTON.

Nov. 30.—ROBERT STEWART of Innerwhat, messenger, contra the MASTER OF SALTON; the Lords found the letters not obligatory upon the Master to pay the sum; but that they imported thir two things; 1*mo*, That he ought to have large damages modified to him for his expenses. 2*do*, That the Master ought not to protect his grandfather's person, nor his liferent against this debt of Messie's, by the gift of the liferent escheat, or any other right standing in his person.

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