

If writ in the terms of the Act. But the ordinary sometimes, in Con- sideration of the favourableness of the early Circumstances of the Defendant, and supersedes Extracting, allowing the other party to produce the writ and a certain day, and those who have not yet given their Oaths to Depose in the interim. If that time do not serve the parties terms, as if those cited by Delagance have been Refractory and Decitfully appropriated the necessary writs, or if he hath got only from their Oaths better Information where the writs are, he might Apply to the whole Court for a Prorogation of the time for producing, who, upon grave and weighty Con- siderations, will stop Extracting of the Circumstances for a while; that such writs may in the Mean-time be recovered; And upon New and serious Emergent Reasons, with, but barely, prorogate the Term. After all which Delays of no thing be produced, the Demand of Circumstances may be Extracted. When ever the party recovers any writs before Extracting of the Circumstances he either Chufes call the Act, that thereby the Eastern- ing or produces them with a petition to the whole Court, & a- vowing that they may be received. When the pursuer is become Ma- ter of the writs he wanted, he will at the Calling of the Act for the first term, Denounce farther proof, that the cause may be concluded. But if the Defender was allowed to prove any more he will not suffer the cause to be concluded till the last term is elapsed. However if later Contentation was made as above, the pursuer may pass from farther proof when he pleases, and hold the cause concluded. When writs are produced, Dispar- datum is made then with to the Lord in the Inner House, and the other party protests to be heard upon his objections at advising the cause and Graves Circumstances of the Term and as ultio- i.e. that the producer may not be allowed a farther time to produce any other writings thereafter as a Mean of proof in that cause; upon which the ordinary makes Adjudicium, and Circumstances quo ad Ultio. However the Lord at advising receive writs Instantly produced. But if at calling the Act no writs are produced as are not pertinent, or have no Rational Connection with the points to be proved, the ordinary ought to reject the same and Circumstances the Term 3 Decemb. 1673. Arbuthnot contra Barclay Hair Lib. 9 Jul. 4658 Jul. 28 17.

Switzerland, some barely seen as a part of the country.
 Disposed against himself are executed in the same
 manner, as against himself of writs, and the witness or
 brought in to make faith, in order to figure after, was
 before the ordinary, and lividation is made with the father
 after, depending, in the same way.

If witnesses and Revers of writs are Under Captivity

And have not Compare, thro' fear of being callt into prison, the
Lords upon Application by a petition to them, Representing
this Circumstance, and a Declaration Under the hand of the party
who has cited such witnesses, bearing, that such persons are
Really cited at his Instance as witnesses, and that they are Ne-
cessary witnesses, will stop Execution of the Caption for some
time, that they may freely come and give their Oaths. But
if at the Conclusion of the cause it appears, that the Declara-
tion was Collusive, and given Industriously to procure to those
witnesses a personal protection for the time; the Lord will
find the party who gave such a Declaration, Act of Bar.
2 Feb. 1676. If servants to any person of Quality Cited as
witnesses, do for fear of Disobeying their Masters a Rise and or
go out of the country and Decline to Compare; the Lords will
Upon a petition, grant Letters to Charge their Masters to pro-
= duce them, Spelt wood Trial. 3d. Feb. Probation by witnesses &c. If
at the second term for Bringing in witnesses, Execution
Against the Magistrates to apprehend the witnesses be produced,
or the Latency of the witnesses & Instructors, at least by
Oath of party; a farther term may be allowed by the Lords
upon a petition offered to them for that Effect Star lib. 4
Tit. 46 &c.

On the case of Balds appointed to be taken by Commissioners, the other party, at calling of the Act, Craves that the term may be firm and fixed, for not reporting the Commission. The ordinary excuses for not reporting a Commission are, the Commissioner deceased or Examined because the other party was absent; or because of Objections made by him upon which Judgments were taken. But not will standing such Judgments, the term will be firm and fixed for not reporting the Commission: because any Default in the other party, or in the Commissioner that hinders its taking effect, cannot be excused by the ordinary of the other house, but must be represented on a petition to the whole house, who upon consideration thereof will either do here to the circumvention, or stop it and renew the Commission to the former or to other Commissioners as they see cause. Where a Commission was granted ex officio to Examine Witnesses that thereby the Lord might be informed, and the Commission executed. The obtainer of the Commission was found obliged to produce the Report, and not allowed to keep it up. Albeit it was pleaded for him that