

No 429. of a foreign Court brought here for execution. We ought to rely upon it as good evidence, unless the contrary be proved, which is not attempted.

“It carried by a great plurality to sustain the claim.”

Sel. Dec. No 253. p. 326.

1768. February 6.

No 430.

Mr DAVID DICKSON *against* HERITORS of NEWLANDS.

A MINISTER being deposed by his Presbytery for irregularities, pursued the Heritors, who refused to pay him his stipend, and *urged*, That the sentence of deposition not being signed by the Moderator of the Presbytery, or any of the members, was void, in terms of act of Parliament 1686, cap. 3.—*Answered*, The act relates to civil, not ecclesiastical judicatories.—THE LORDS found the extract of the sentence, under the hand of the Presbytery Clerk, was not proper evidence of the deposition.

Fol. Dic. v. 4. p. 165. Fac. Col.

*** This case is No 184. p. 7464. *voce* JURISDICTION.

S E C T. V.

Extract.

1622. November 27. EARL MARR *against* LORD ELPHINSTON.

No 431.

A WRIT lying in the King's register, though it bear not registration, may be extracted by the Clerk-register, and a copy thereof subscribed will make as great faith as the principal, except in improbations.

Fol. Dic. v. 2. p. 250. Haddington.

*** This case is No 80. p. 2218. *voce* CITATION.

1627. July 17. KER *against* The MINISTER of ANCRUM.

No 432.
An extract of
a comprising

IN a spuilzie at the instance of Sir Robert Ker against the Minister of Ancrum, a comprising produced of the tack of the teinds of that parish being

quarrelled, because it was not the principal comprising, authorised with the seal of the comprisers, and subscription of the Judge; neither was it warranted as a transumpt, decerned to be doubled by a sentence of a Judge, but was only extracted by the clerk to that comprising, whose extract ought not to have faith, that being no ordinary nor public judgment; and the clerk being but a private person, after the comprising was ended, he could not, at his own hand, without a greater warrant from a sovereign Judge, effectually copy or extract the same, to produce action thereon, as an authentic writ. This allegiance was repelled, and the comprising so extracted sustained, as sufficient to produce action.

No 432.
given by the clerk thereto, was found a sufficient active title.

Act. *Stuart.*

Alt. ———.

Clerk, *Hay.*

Fol. Dic. v. 2. p. 250. Durie, p. 311.

1629. *March 26.*

DUFF against BOYD and WILSON.

Two creditors contending, which of them should be found to have best right to a sum of money arrested, as pertaining to their common debtor; the one claiming the same by virtue of an arrestment laid upon that sum, before the other party's diligence; and the other party alleging, that that arrestment ought not to be respected, because the principal letters, which should be the warrant to all arrestments, were not produced, seeing there was nothing produced but an extract of the letters of horning out of the Clerk of Register's books, wherein the horning was registered; in the which extract, there was contained a warrant to arrest, and, by virtue of the warrant in the extract, the arrestment was made by the officer, since the letters of horning were registered; and which extract, he alleged, could not be a warrant to any officer, or to any party, whereupon to make arrestment, except the principal letters, bearing that warrant, themselves were shewn.—THE LORDS found the foresaid extract, albeit purporting a warrant of arrestment, could not be a warrant whereby arrestment could be executed, the principal letters themselves not being shewn; which principal letters, signed and signeted, could only be a ground of arrestment; and, therefore, the said arrestment was not sustained; but the other party was preferred.

No 433.
An extract found not sufficient for a warrant of arrestment.

Act. *Davidson.*Alt. *Boyd.*Clerk, *Gibson.*

Fol. Dic. v. 2. p. 250. Durie, p. 442.

* * * Spottiswood reports this case :

STEVEN BOYD and one WILSON, two of Andrew Kellie's creditors. were striving about L. 400, pertaining to Andrew, which of them should be preferred: They had both arrested; but Steven Boyd having lost his principal letters of