

No 337.

tion of damages, and granting warrant to and ordaining the keeper of the record to transmit the warrants of the extracted decree to the clerk of the process.

Lord Ordinary, *Craig.*Act. Solicitor-General *Blair.*Agent, *J. Keay, W. S.*Alt. *H. Erskine.*Agent, *H. Davidson, W. S.*Clerk, *Home.*

F.

*Fac. Col. No 162. p. 365.*

\* \* It was found, (Douglas petitioner, March 7: 1753.) that informations must be engrossed in the extracted decree. The case is No 86. p. 12020.

## SECT. XVIII.

## Decrees in Absence.

1681. *January 22.*

The EARL of DUNDONALD *against* The LAIRD of Dunlop and his Creditors.

No 338.

THE Earl of Dundonnald being infeft in an annualrent out of the Laird of Dunlop's estate, raises a summons of pointing of the ground, which being called in the Outer-house, in presence of the Ordinary, Dunlop opposed not, but consented to a decret; but his Creditors *alleged*, That they ought to see the process, and it ought to be seen, and returned, and enrolled; and that any party may stop a decret in absence, and crave to see it. It was *answered*, That albeit decreets passing in course by the clerk may be stopped by any desiring to see, yet this decret was pronounced by the Ordinary, and therefore none but a party called can stop the same, unless they produce an interest, upon which the Ordinary must hear that party, if it be a competent interest, whereby the producer is found *legitimus contradictor*.

Which the LORDS sustained.

*Stair, v. 2. p. 840.*1692. *December 29.*

PHILP of Almerycloss *against* OGILVY of Innerquharity.

No 339.

THE LORDS were divided on this question, if it was to be reputed a decret *in foro* where a party appeared, and produced an interest, as a ground of competition on the subject in controversy, but afterwards was absent, and proponed nothing upon his interest; so that compearing in this manner, and finding his