

1709. *December 29.* WILLIAM DUFF of Bracco, *Supplicant.*

BRACCO, having pursued a sale and ranking of the estate of Edinglassie, against the heritor and his other creditors ; and carried the process so far on, without applying for expenses till the decret of ranking was ready to be extracted, and the sale ready to be advised : The Lords, upon a petition offered by Bracco, remitted to the Ordinary in the ranking to modify a sum for satisfying the expenses already bestowed, and to be expended for perfecting the sale and ranking ; and to grant warrant to the factor of the estate, for payment thereof.

*Page 382.*

---

1709. *December 30.* SIR JOHN JOHNSTOUN of Caskiben *against* JOHN PEDDER, Commissary Clerk-depute of Aberdeen.

SIR JOHN JOHNSTOUN having obtained a precept of poinding against several debtors, pursued by him before the Commissary of Aberdeen ; and thereupon charged Isobel Drum, relict of Alexander Burnet, merchant there, for the sum of L. 111. 9s. contained in the precept as due by her : She suspended ; and Sir John required from John Pedder, who signed the precept, an extract of his decret, in respect the charge could not be discussed upon the precept. Which extract John Pedder refused to give out, because there was no decret against Isobel Drum ; but his servant had rashly extended the precept upon the decret, against the whole debtors in the libel, without noticing precisely the persons decerned against ; and he, following the servant's faith, had by inadvertency signed it. Sir John having nothing left to instruct his debt, but the decret, which was refused, by Isobel Drum's dying in the mean time ; he pursued John Pedder for payment of the L. 111. 9s. and for damages.

The Lords sustained the defender's giving out the precept without having a decret for his warrant, relevant to make him liable for the L.111. 9s. mentioned therein to be due by Isobel Drum to Sir John Johnstoun. Albeit it was alleged for the defender, that his escape was innocent and pardonable, and such as might have fallen out in the hands of the most exact man.

*Page 383.*

---

1710. *January 6.* ELIZABETH BLAIR, Lady Kirkton, *against* HENRY HUNTER of Kirkton, her Husband.

HENRY HUNTER, to oblige his wife to return to his family, which she had deserted, through his severity and maltreating of her, granted a bond to pay to her year-