

## MESSENGER.

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1738. *November 3.*

ALEXANDER ROSS, Messenger, *against* The SHERIFF-CLERK of ROSS.

No. 1.

MESSENGER deprived and fined for exacting fees or securities for his executing captions, and sometimes for delaying executing them, from the debtors, and for other malversations. Declared, that the messengers ought for executing captions to take their payment only from their employers.

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LIEUTENANT HOPE *against* DRUMMOND.

No. 2.

ONE Drummond being complained of for executing a caption against Sir Alexander Hope in the Infirmary, whether he had been sent by advice on account of madness, and carrying him to a tavern, where he took about L.4 from him of the debt on receipt, and praying warrant to seize Drummond, and to detain Sir Alexander in the Infirmary;—we remitted to Kilkerran, Ordinary, to enquire into Sir Alexander's condition, and meantime on the attestations produced, granted warrant to detain him in the Infirmary, and also to apprehend Drummond, 13th January 1749. And after examining Drummond and taking a proof, the Court, 28th February, found the execution of the caption illegal and oppressive, with a malicious intention to extort money, and deprived the messenger both of his office of messenger and notary, (which he also was) and committed him to prison for a month. But we did not lay it on Sir Alexander's madness alone, for Drummond's lawyers argued, and pretty plausibly, that madness, though even apparent, was no protection against executing the King's letters against a rebel, or even against executing a judgment of commitment.

See NOTES.