

No 331.

THE LORDS, 19th June, besides finding him liable in Geinzies' whole expense, fined him in L. 20 Sterling for the use of the poor, which they ordained to be paid to Mr William Kirkpatrick, clerk to the process, and decerned, that so diligence might be awarded at Mr Kirkpatrick's instance therefor; and this day refused a petition, and adhered.

Act. Hay.

Alt. Lockhart.

Clerk, Kirkpatrick.

*D. Falconer, v. I. No. 125. p. 152.*

No 332.

1747. July 5. BURGESSES OF RUTHERGLEN *against* The MAGISTRATES.

A COMPLAINT against the Magistrates of Rutherglen, for an undue election, being given in to Court, and appointed to be served, it was *objected*, That the Court's warrant for serving the petition and complaint had not been regularly executed; for, in place of extracting the interlocutor, the complainers had borrowed it up from the clerk, and delivered it to a messenger to be executed. Observed from the Bench, That the practice had not been unfrequent, authorised probably from the ancient custom, which was, that macers used to cite all parties living within two miles of Edinburgh, carrying with them the record itself as their warrant. THE LORDS over-ruled the objection.

*Fol. Dic. v. 4. p. 151. Rem. Dec.*This case is No 14. p. 3689. *voce* EXECUTION.

\* \* \* A similar decision was pronounced 28th July 1761, Stewart against Dalrymple, No 18. p. 8579. *voce* MEMBER OF PARLIAMENT.

1748. February 3. ACT of SEDERUNT anent extracting DECREETS.

No 333.  
Decrees on  
refused repre-  
sentations  
must be put  
up in the mi-  
nute-book,  
and not ex-  
tracted till  
after three  
days.

THE Lords of Council and Session considering that sometimes decreets are precipitantly extracted, after interlocutors refusing representations, reclaiming against interlocutors of Lord Ordinaries pronouncing decreets; do therefore statute and ordain, That when any decret shall be pronounced by a Lord Ordinary, and a representation shall be presented against the same and refused, that immediately the decret formerly pronounced shall be again put up in the minute-book, of the date of the interlocutor refusing the representation; and discharge any decret to be extracted upon the refusal of such representation, for the space of three days after the said decret shall be last put up in the minute-book; and after expiring of the said three days, allow the decret to be extracted, unless the same be again stopt by an interlocutor of the Ordinary, or that application shall be made to the Lords in presence, by petition; and ordain this act to be recorded in the sederunt-books, and printed and published as usual.

*D. Falconer, v. I. No. 134. p. 320.*