

1778. *March 11.* BRUCE of KINNAIRD *against* CARRON COMPANY.

IN the much contested process betwixt the Carron Company and Mr Bruce of Kinnaird, concerning their lease of the coal of Kinnaird; the Lords having in February last pronounced an interlocutor, Mr Bruce reclaimed against it, and his petition was ordered to be answered by the Company; and the day for giving in their answers was prorogated to the 23d April. Mr Bruce, finding it impossible to get a decision this Session, resolved if possible to carry his cause by appeal to the House of Lords; where he hoped to get a determination before the Session of Parliament came to an end. But then, he saw that, unless his reclaiming petition was taken out of the way, this would be ineffectual; as, in all such cases, the House of Peers consider the cause as still depending below, and refuse to proceed upon it, until the merits of the reclamer is determined. He, therefore, in the last hour of the Session, presented a short petition, (11th March 1778,) craving liberty to withdraw his reclaiming petition, and avowed his intention of carrying the cause elsewhere. The petition containing some reflections on the Carron Company's dilatory conduct of the cause, their lawyers insisted for liberty to answer it: and they said, in general, that no paper given into Court, by any of the parties in a cause, can be withdrawn without consent of the other; especially if it contains admissions either in fact or law. But whether it did so or not, they held the doctrine to be general, and therefore insisted to see the petition. The Lords were inclined to follow their ordinary course in all similar cases, never to hinder a party to answer a petition, if they insisted for it. Mr Bruce, seeing this, withdrew his written petition.

JUDICIAL ENACTMENT.

A JUDICIAL enactment of a defender to appear personally at all diets of Court, may be done by a short minute, drawn and written by the clerk, and signed by the party, without any other solemnity.

1764. *July.* JOHN MACKENZIE of BRAE, &c. *against* COLONEL SCOTT and OTHERS.

IN the election causes of the Burgh of Dingwall, the election having been brought under challenge; the Lords found, "That the election of Magistrates and Councillors for the Burgh of Dingwall, made at Martinmas 1758, by the persons complained upon, was brought about by the means of bribery and corruption; and therefore found the said election void and null, and reduced the same, with all that might follow thereon; but refused to declare the persons voted for by the complainers to be legally elected, and found Colonel John Scot, &c. conjunctly and severally liable in full costs of suit, with the expenses of extracting the decret:" And, by an after interlocutor, the Court modified the expenses to about £110. These expenses being insisted for, Colonel Scot, &c. insisted, that, besides a valid discharge, they were entitled, upon payment, to