

No. 4. The following interlocutor was unanimously pronounced (6th February 1808.)  
 “ Find the petitioners entitled to their fees of the within mentioned process, as  
 “ if the proceeding were extended into a decret ; and therefore decern against  
 “ the whole respondents, conjunctly and severally, for payment to the peti-  
 “ tioners of their dues accordingly as the same shall be certified by their col-  
 “ lector ; reserving to the respondents, the said David Black and others, and  
 “ the said Mr. Patrick Spence and others, their recourse against each other as  
 “ accords.”

Lord Ordinary, *Meadowbank.* Act. *Matthew Ross.* Alt. *Thos. W. Baird.*  
*J. & C. Bremner and Geo. Wilson, Agents.* *Buchanan, Clerk.*

*J. W.* *Fac. Coll. No. 29. p. 104.*

1808. February 6.

JOHN PRINGLE, &C. PRINCIPAL CLERKS OF SESSION, *against* MRS. ROSE  
 INNES, &C. and JOHN GORDON.

No. 5.

In a process, the pursuer and defender are conjunctly and severally liable to the clerks of Session for the fees of extract, although the process may have been removed out of Court by extrajudicial transaction.

The claim of the Clerks of Session arose in these circumstances.

In the year 1798, Mrs. Rose Innes of Netherdate, with concurrence of her husband, raised an action against John Gordon, Esq. of Avochie, writer to the signet, concluding for payment of certain sums of money.

After considerable litigation before the Lord Justice Clerk, Ordinary, an interlocutor was pronounced, in part sustaining, and in part repelling the pursuer's claim.

Both parties reclaimed to the Court ; and the interlocutor of the Lord Ordinary was adhered to ; but no expenses were found due to either party. Mutual reclaiming petitions were again presented. Both petitions were appointed to be answered ; but in consequence of an extra judicial settlement, no farther proceedings took place in the action.

The clerks gave in a petition to the Court, and therein referred to the argument and authorities stated in the case of Black, *supra*.

The Court were clearly of opinion, that the clerks of Court could not be deprived of their dues by extrajudicial transactions ; and that in all processes, whether pursued to decree or not, they were entitled to their regulated fees as certified by their collector. But as, in consequence of the preceding decision, the case was given up by the respondents, no interlocutor stands upon the records of Court.

Act. *Matthew Ross & William Erskine.* Alt. *J. Hagart & T. W. Baird.*  
*Agents, J. & C. Bremners, & Geo. Wilson.* *Buchanan, Clerk.*

*J. W.* *Fac. Coll. No. 30. p. 108.*

\* \* The same thing happened in the following cases at the same time : Stirling Banking Co.—C. Crighton and D. Mill.—Arch. Johnston.—A. Robertson.