

descend to Ulbster, his singular successor; and *2do*, That the Provost and one of the Bailies were not residenters within the Burgh. We repelled both these, because of Ulbster's, and before him Earl Breadalbane's long possession, and inveterate usage of the Burgh. *Vide* No. 29.

No. 24.

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1747. *June 30.*

MAGISTRATES of KIRKWALL *against* INHABITANTS of STROMNESS.

BURGH ROYAL may seize and confiscate goods imported or exported by unfree traders, but cannot pursue them in an ordinary action for the value of such goods not seized or arrested by them.

No. 25.

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1747. *July 3.*

ELECTION of RUTHERGLEN.

WE having on a complaint on the act 1743, set aside the election of four Councillors that by the set ought to be chosen by poll of the unincorporated Burgesses, and ordered a new poll; a new complaint was made of that second poll, which we ordered to be answered eight days after service; and in the answers, objections were made on that act against the competency of the complaint as being too late in the time of answering; but we found it not within the act, and repelled the objection, and thought the complaint equally competent, as it would be against a Sheriff for wrong executing our orders in setting march stones.

No. 26.

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1747. *December 2.*

LAING, Deacon of Selkirk, and Other BURGESSES, *against* MAGISTRATES of SELKIRK.

MAGISTRATES of Burghs cannot be sued for mal-administration of the common good of the Burgh, at the instance of any number of Burgesses, not even of the whole Deacons of Crafts, even though some of the pursuers have born office in the Burgh; though, 19th June 1747 we sustained process; yet afterwards we found the pursuers' had no title, and dismissed it. We again sustained the pursuers title by a narrow majority, but this afterwards stopped on a petition. (See NOTES.)

No. 27.