

Lords will recal it. But where a decret is extracted regularly, and the irregularity lies in the charge, the remedy is by suspension, and a complaint is not competent. Fount. Vol. I. page 228, *Burnet*, 24th November 1764.

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1765. August 7. M<sup>V</sup>ICAR and FACTRIX *against* MACALLUM and KER.

A DECRET was extracted, *anno* 1697, disconform to the warrants. It was extracted against a person not in the process, instead of another, who was truly in it. The warrants, and the extractor's erroneous scroll, were lodged in the laigh Parliament House: a new extract was demanded: the keeper gave one conform to the erroneous scroll,—but the Lords, on a summary petition, ordered him to give one conform to the warrants.

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1765. June 20. BRAIDWOOD *against* WALKER.

BRAIDWOOD, candlemaker, pursued the payment of an account of candles, furnished to the house of Richard Walker, vintner. The account was attested by Mrs Walker. The pursuit was against her, and decret went accordingly; though, as she was *vestita viro*, it was understood not to affect her person, but only the goods under her *prepositura*; but no exception was made in the interlocutor. It was said she could suspend, so far as necessary, to preserve her personal liberty; but it would have been better to have added this quality to the interlocutor, "Not to affect her person, but the goods under her *prepositura*."

The late Lord Elchies was of opinion, that all warrants granted by the Lords, even warrants of commitment, to be executed at a distance, ought to be extracted. It was his opinion, that the clerk's subscription was the proper evidence of the mind and language of the Court. This is safest also for the messenger, who might otherways proceed upon an interlocutor altered by the Court. Whereas the extract ascertains him of the final warrant he is bound to obey.

On a petition, the Lords allowed a decret to be wrote on parchment and sealed with the seal of the Court, 29th March 1683, p. 230, Fount. Vol. I.