

1670. *June 29, and July 6.* SIR JAMES RAMSAY of Benholme *against* ELEIS.

*June 29.*—THIS was a reduction of a comprising, because the same was led *contra non habentem potestatem, viz.* against one denuded of the property of the lands, in favours of the pursuer's author, long before the leading of the apprising; and of an inhibition *quoad* the reducer, because the disposition was made to his author, before the inhibition was executed at the market cross of the sheriffdom where the lands disposed lay.

*Advocates' MS. No. 41, folio 77.*

*July 6.*—In this reduction they had another reason besides that above set down, *viz.* that no respect could be had to the apprising nor inhibition, because there was a decret of certification granted against the bond which is the ground both of the inhibition and apprising, for not production, and so all that followed thereupon must fall *in consequentiam*.

ANSWERED,—That the said bond being registrate before certification was granted, an extract of it was produced, which appears by the minutes; and so the certification was unjustly granted. Replied, it was not enough to produce the extract, but they should have produced the principal; at the least, if it was registrate in the books of Session, they should have given in a note of the date of it.

My Lord Stair FOUND the principal needed not to be produced, it being registrate, and that the extract satisfied the production, as well as a note of the date would have done, seeing it was the equivalent; and therefore annulled the certification.

*Advocates' MS. No. 63, folio 80.*

1670. *July 6.* SIR GILBERT STEWART of Polkaik *against* STUART.

THIS was an action for reparation of his honour, in so far as the defender had slandered him by avowing openly and frequently, that the pursuer, being Commissary of Dunkeld, had torn out of his books a confirmed testament, which the defender having use of for proving something, he could not get it.

*Advocates' MS. No. 64, folio 80.*

1670. *July 6.* The LAIRD of EDMISTON and His LADY *against* MAJOR BIGGAR, as having married the Heir of Wolmet.

THIS was a declarator that the pursuer and his lady might be liberated and freed of a mutual or reciprocal contract, at least a minute thereof, past betwixt the Lady Edmiston's father and the deceased Laird of Wolmet, in regard the defenders nor their predecessors had not fulfilled their part of the said contract. In