

estate, intents an action for proving the tenor of the bond ; and refers all to the defender's oath ; both the bond, its contents, and that the same is not as yet paid.

This was FOUND RELEVANT, and a day was assigned to produce him to depone, and it was granted he should depone in presence of the witnesses in the bond.

Act. Seaton.

Alt. Inglis.

Advocates' MS. No. 76, folio 82.

1670. *July 15.*

THERE was an action at Sir Robert Sinclair's instance, of declarator of his gift of *ultimus hæres* of the Laird of Halero in Orkney, against the heirs female thereof.

Advocates' MS. No. 77, folio 82.

1670. *July 16.* The VISCOUNT of STORMOND *against* The EARL of NORTHESK.

THE Earl of Northesk, then Earl of Ethil, having employed the Viscount of Stormond, by his missive letter, to procure to him the change of his title of honour ; declaring that what he should expend in doing thereof, he should thankfully repay the same. The Viscount, having procured the same by the mediation of Mr. Andrew Hay, and having given above L.100 Sterling therefore, pursues the Earl upon his missive, for reimbursing him that and his other expences. Their defence was upon compensation.

Act. Mr. William Murray.

Alt. _____

Advocates' MS. No. 78, folio 82.

1670. *July 16.* The EARL of WEIMES *against* The MARQUIS of DOUGLAS.

THIS was a pursuit for relief of cautionary paid by the Earl for the Marquis his father.

ALLEGED, *1mo*, A great part of the sums paid were bygone annualrents, of which he can never be heard to crave annualrent. REPLIED, Ought to be repelled, in regard a cautioner ought to be freed of all damage and interest incurred by him thereby. The Lords FOUND he should have annualrent of the annualrent paid.

ALLEGED, *2do*, He can never be heard to seek relief unless he say he paid it on a distress. REPLIED, The bond was registrate by the president against him. The Lords FOUND that sufficient distress.

Act. Cheap.

Alt. Lockhart and Colt.

Advocates' MS. No. 79, folio 82.