

"THE LORDS ordained the informations to be engrossed in the extracts of the decret."

No 86.

For the Petitioner, *And. Pringle & Bruce.* Alt. *A. Lockhart & R. Dundas.* Clerk, *Gibson.*  
*Fac. Col. No 73. p. 112.*

1804. July 11.

KEITH, Petitioner.

ALEXANDER KEITH, Esq. of Ravelston, brought a process of removing against John Grinton, before the Sheriff of Edinburgh, who (May 9. 1804) pronounced the following interlocutor: "Having considered this condescence, answers thereto, and whole process, and also the process presently depending between the same parties, respecting implement of certain obligations contained in the tack in question; finds there is evidence, that the defender has not implemented his part of the premises in terms of the tack, and therefore he is not entitled to the benefit of the option to continue for eleven years after Martinmas next; in respect whereof, ordains him to remove as libelled; finds him liable in expenses of process, which modifies to 40s. Sterling, besides the expence of extract."

No 87.  
 A bill of advocacy in an action of removing must be intimated to the party, as well as in the inferior court.

Two reclaiming petitions were refused without answers.

Of this judgment a bill of advocacy was presented, and the usual interlocutor pronounced, (June 6. 1804:) "To see and answer within fourteen days; in the meantime, sists procedure; and to be intimated." The intimation was accordingly made to the Sheriff-clerk substitute, but not to the party himself, nor his procurator.

Afterwards, (29th June) the LORD ORDINARY pronounced this interlocutor: "Having considered this bill, and advised with the LORDS, passes the bill upon the caution offered."

On the 5th of July, the letters of advocacy were signeted.

Mr Keith having given orders to have the decree of removing extracted, now, for the first time, learned that these proceedings had taken place in absence; and petitioned the Court to have the letters of advocacy recalled, and the principal bill transmitted by the keeper of the signet to the clerk to the process; and then to remit to the Lord Ordinary to recall his interlocutor, passing the bill, that answers might be given in.

This was done accordingly, (11th July;) as the bill of advocacy should have been intimated to the party or his procurator; more especially as by act of sederunt, 14th June 1799, the charger need not put in his answers to a bill of suspension till he has had an opportunity of seeing the bond of caution; and the act also declares, that "the same rule shall take place as to bills of advocacy in removings where caution is required."

Lord Ordinary, *Balmuto.* For the Petitioner, *Hay.* Agent, *Ja. Ferguson, W. S.*  
 Clerk, *Colquhoun.*