

T E N O R.

1541. *February 16.* **DICKSON against VEITCH.**

No. I.

The Lords admitted Patrick Dickson of A. to prove casum amissionis et tenorem instrumenti per testes qui scriberunt et legerunt dictum instrumentum. The cause was, that the said Patrick summoned the notary, in whose protocol the instrument was inserted; and he answered, that the said protocol was burned at the burning of Kelso.

Fol. Dic. v. 2. p. 446. Sinclair MS. p. 160.

. This case is mentioned at greater length in another Copy of the same MS.

The Lords, in a case of Patrick Dickson in Hudope, against Sir Thomas Veitch, notary-public, and John Dickson for his interest, repelled certain witnesses produced by the said Patrick, racione consanguinitatis in gradu prohibito inter ipsos et testes; and also in the said cause the Lords admitted the practice foresaid to prove an instrument, which he desired the notary to give him, which the notary refused to do, because that he alleged that his protocol book was burned in his chamber in Kelso, when Kelso was first burned, and that he could not remember presently what the instrument contained; therefore the Lords admitted the said Patrick to prove by witnesses the burning of the said protocol, and the tenor of the instrument, and that it was whole and not vitiated by them that had read it, and show the same, to that effect, that the notary might be compelled to give forth an new public instrument.

Sinclair MS. p. 10.

1564. *July 15.* **HAMILTON against SOMMERVILLE.**

No. 2.

Anent the action pursued by Sir James Hamilton against the Lord Sommerville for reduction of certain lands; it was alleged by the said Lord Sommerville, that

A charter of confirmation found to sup-

No. 2.
 ply a lost
 charter, with-
 out a process
 for proving
 the tenor.

the said James' father had resigned certain of the said lands in the said Lord's father's hands as superior thereof, *ad perpetuam remanentiam*. It was alleged by the said Sir James, that the said Lord's father after that resignation, had infeft heritably the said Sir James' father in the said lands; and to prove the same, produced an extract of the register authenticated by the clerk thereof, containing at length ane confirmation of the King's G. of the said inserest, and the said Lord's charter made to the said Sir James' father interted at length in the said confirmation. It was alleged by the said Lord Sommerville, that the said extract of the register was not enough to verify the said Sir James' allegiance, without he show the principal charter made by the said Lord's father; which allegiance of the said Lord Sommerville was repelled; and found, that ane charter inserted at length in the King's confirmation is sufficient, howbeit that the principal charter be not produced, and shall have as great faith as if it were produced.

Fol. Dic. v. 2. p. 449. Maitland MS. p. 152.

1564. December 18. JAMES BROWN *against* ELIZABETH WILLIAMSON.

No. 3.
 Found as
 above.

Ane evident, or chartour of confirmatioun, maid and gevin be ane havand powar to mak and give the samin, and contenannd in it all and hail the chartour and evident whilk is confirmit, as the common use and consuetude is in sic caisis, is authentique, and makis als greit faith in preiving of ony thing contenit in the evident quhilk is confirmit, as the samin itself may do in ony wayis.

Balfour, (PROBATION OF WRITS,) p. 368.

1567. LORD CLOVA *against* RAMSAY.

No. 4.

Both parties having taken instruments upon pronouncing a decreet-arbitral, the Lords found that the said extended instruments, containing the tenor of the decreet, were sufficient without production of the principal decreet.—See APPENDIX.

Fol. Dic. v. 2. p. 449. Maitland MS.

1587. February. LAIRD OF DRUM *against* FEDDERAT.

No. 5.
 A probation
 of the tenor
 was rejected,
 because no

The Laird of Drum pursued the Laird of Fedderat to cause the said Fedderat insist in an action wherein he had summoned the Laird of Drum to hear and see the tenor of certain infeftments made by Fedderat, grandson to the said Drum,