

No. 26. duced the time of the obtaining of the said decreets, and might be truly doubted, and yet be a false writ; and it were of a dangerous consequence, upon such pretences and adminicles, to make up an authentic writ, to have the force of a principal disposition as to all effects; especially it being considered, that even extracts do not satisfy in improbations, though out of the registers of the highest judicatories; by reason that parties concerned will be prejudged of the means of indirect articles of improbation, arising upon the sight and production of principal writs, by comparing hand-writing and subscriptions and others; and if tenors being made up, should be of more force than extracts, there should be the same inconvenience and hazard to the people; and a door should be opened to contrivances, if after papers are produced in judgment, they should be destroyed on purpose, and the tenors of the same should be thereafter made up by a decreet, which should satisfy the production in improbations.

The Lords thought fit again to re-examine the said James Galbraith, before they should proceed to sentence.

1676. February 15.—The Lords, in the case above mentioned, found the tenor of the writ therein specified proved by the adminicles therein mentioned—*In presentia*.

*Dirleton, No. 304. p. 149. & No. 335. p. 160.*

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1676. February 24. JOHNSTON *against* ORCHARDTOUN.

No. 27.

In a pursuit upon a bond of corroboration, it was alleged, That the principal bond ought to be produced; which was repelled, in respect the maxim, *non creditur referenti nisi constet de relato*, holds only in the case where there is only a naked relation to a writ, and not when the writ that relates thereto doth proceed to an obligation thereupon; and it is not only relative but dispositive.

Reporter, *Glendoick*.

Clerk, *Robert Hamilton*.

*Dirleton, No. 347. p. 165.*

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1677. December 9. BOYD *against* MALLOCH.

No. 28.

The Lords found the 94. act Parl. 1579, anent discharging the proving the tenor of letters of horning by witnesses, did not extend to proving the tenor of executions of apprisings; though some understood the act only where executions of horning were extended; but there seems no difference, whether extended or not.

*Fountainhall MS.*