

make the same furthcoming when this debt should be craved.—THE LORDS  
repelled the exception in respect of the reply.

*Auchinleck, MS. p. 77.*

No 57.

S E C T. VII.

The appretiation in the confirmed testament may be corrected by a  
confirmation *ad male appretiatata*, or by proof of higher value.—Li-  
cense to pursue.

1610. July 19. PATERSON *against* BANNATYNE.

No 58.

HE who was cautioner for an executor, in confirmation of a testament, will  
not only be decerned to make the gear confirmed furthcoming to the creditors at  
the prices contained in the confirmed testament; but also for greater prices, if the  
goods be decerned to be of greater avail nor the prices confirmed.

*Fol. Dic. v. 1. p. 275. Haddington, MS. No 1976.*

1621. December 14. HALYDAY *against* ———.

No 59.

IN an action pursued by Halyday against ———, for payment of certain  
sums, and goods pertaining to the defunct, unto the pursuer, as the executor-  
dative decerned *ad omissa*, and having license to pursue therefor, the LORDS  
found, that there ought to be a testament of the omitted goods acclaimed first  
confirmed before the pursuit could be sustained; and would not find process  
upon the license to pursue an action for goods omitted out of the principal con-  
firmed testament, albeit they sustained pursuits at the instance of the executors  
decerned in principal testaments, upon license to pursue before confirmation of  
the principal testament.

Act. *Belshes.*

Alt. *Henderson.*

Clerk, *Gibson.*

*Durie, p. 7.*

1627. November 24. GOURLAY *against* ———.

No 60.

IN a suspension betwixt Gourlay in Leith and ———, anent the exhibition  
of a coffer, for the which there was decret given at the instance of the charger,

An executor  
confirmed a  
coffer in the