

who was only for this defender, was sick of a disease, of which he died in January 1674, as is notour to the Lords.

No 162.

Whereupon the LORDS reponed the defender against the certification, providing the principal bond were produced out of the registers betwixt and Saturday next.

Fol. Dic. v. 1. p. 453. Stair, v. 2. p. 323.

1678. November 15.

EDMONDSTON against EDMONDSTON.

THE Laird of Duntreath having obtained certification against a bond of 7000 merks, granted by him to Mr John Edmondston; the said Mr John raises a reduction of the certification on this reason, that he is, and was the time of the process and certification, residenter in Ireland; and though the Lords are strict in reponing against certifications *ex intervallo*, as being the mean to secure the lieges against pleas and pretences; yet it hath never been extended with that rigour against those that reside out of the country, albeit, *de rigore*, they be liable to the Lords jurisdiction, *propter domicilium originis*; yea, the Lords reponed one Campbell against a certification obtained by Glenurchie against him, when he was a soldier in Ireland, though he was, not there *animo remanendi*. It was answered, That certifications are the lieges greatest securities; and that though this bond be now produced, it was never a delivered evident, but deposited in Mr John Spreul's hand, in order to a transaction; and, therefore, the Lords did not repon against the certification, till Mr John Spreul's oath was taken, which now is in process, declaring that the bonds, and some other writs, were put in his hand, to draw contracts upon, but were taken from him upon warrant from both parties; so that it appears it was not delivered *ab initio*, but hath unwarrantably come in Mr John Edmondston's hand, and was, after Mr John Spreul, in the hand of one Dobby in Ireland, arbiter betwixt the parties.

THE LORDS reponed against the certification but; upon further allegiance, that Mr John Edmondston, though residing in Ireland, compeared, and took terms to produce, they continued certification to the end of the cause; but allowed Duntreath to insist in his reason of reduction, upon deposition; and found it relevant, by Mr John Edmondston's oath, or writ, that it was deposited in Dobbie's hands, and by Dobbie's oath the terms of deposition.

Fol. Dic. v. 1. p. 453. Stair, v. 2. p. 646.

1695. December 24.

RORY MACKENZIE against THOMAS BOYD.

MERSINGTON reported Mr Rory Mackenzie of Dalvennan, Advocate, against Thomas Boyd of Pinkhill, for payment of a debt due to his sister, as a part of

No 163.
A party reponed against certification *de recenti*, being out of the country when pronounced.

No 164.
Notwithstanding of certification in an improbation, found competent to prove by the debtor's oath, that he had truly granted the bond in dispute.