

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 appretiated*, 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