

REPLIED,—That he was content to restrict his summons to the goods contained in the said ticket.

ALLEGES, *2do*,—No process yet ; because [the defender] offers to prove that the goods above written were taken out of the said ship, as she was coming from Ham-  
burgh ; and that by testificates under the hands of the parties mentioned in the ticket. Which allegiance the Lords found relevant, and assigned him a day for proving the same. At which day, he failyieing, the term is circumduced against him, and decret given forth, ordaining the said Jo. Ker to make payment of the prices of the said goods, as is contained in the pursuer's account homologated by him.

*Act.* Mr. William Hog. *Alt.* Mr. Robert Deans.

*Signet MS. No. 30, folio 10.*

1663. *December 11.* ISOBELL, &c. AIKENHEAD, &c. *against* CORNELIUS INGLIS of Newtonlies.

*IN anno 1639*, Patrick Inglis of Elphinston, as principal, and Mr. Cornelius Inglis of Newtonlies, as cautioner, by their bond, grant them to have borrowed from Mr. Harie Aikenhead, minister at North-Berwick, 4000 merks, which they oblige them to repay. The same two, *in anno 1647*, by another bond, bind and oblige them to content and pay to the said Mr. Harie 3000 merks, borrowed by them from him, by and attour the 4000 merks contained in the bond, 1639 ; (this clause it has.) Mr. Harie, in 1648, assigns the bond granted in 1647 to his son Archibald. He enters heir to his father on his decease ; and assigns to his sister Isobell, married to Ja. Rig, the equal half of the bond of 4000 merks, granted to his father *in anno 1639*, with the equal half of the penalty contained therein, and annualrents thereof, then resting owing, unpaid. He dies. The two sisters immediately confirm their brother's testament, and get themselves nominated executors to him ; then, with concurrence of their curators, Mr. James Pilans Regent, and the said Ja. Rig, spouse to Isobell, they pursue Mr. Cornelius to make payment to them of the said bond in 1647, of 3000 merks ; because they are confirmed executors to their brother, who was heir to their father ; yea, had an assignation thereto from his father, in whose favours the bond was granted : *item*, of 2000 merks, as the equal half of the bond of 4000 merks granted in 1639, to which they have right by virtue of their brother's assignations made thereof to them.

All which the Lords considering, they decern the said Mr. Cornelius to make payment of the sums called for.

*Act.* Mr. William Beaton. It's in absence.

*Signet MS. No. 31, folio 10.*