

the general custom of weighing them elsewhere, *quia specialia derogant generalibus*.

This custom was found relevant.

*Act.* Charger, Cunyghame.

*Alt.* Sinclair.

*Advocates' MS. No. 59, folio 79.*

1670. *July 5.* CALDERWOOD *against* HANDIESYDE and SHAW.

THIS is a reduction of a disposition, *1mo*, Because granted on death-bed. *2do*, On the act of Parliament 1661, preferring the creditors of the defunct to the creditors of the apparent heir. *3tio*, On the act of Parliament 1621, anent dispositions not made for onerous causes.

To this last, it was ANSWERED,—That the disposition itself bore that it was made for onerous causes.

REPLIED,—That he behoved to prove the onerous causes for which it was granted otherways than by the disposition itself.

DUPLIED,—If the disposition had been *inter conjunctas personas*, then he confesses he ought to have instructed the onerous causes, albeit the disposition had borne the same: but being among strangers, he needed not; especially considering the defender is willing to give his oath upon the onerous equivalent causes thereof.

The Lords REPELLED the reason and reply, in respect of the answer and duply.

Then ALLEGED,—That the disposition bore only in general, that it was granted for causes onerous, without condescending on the special causes thereof; which was not relevant.

REPLIED,—It were a hard thing to reduce all dispositions bearing only, in general, causes onerous.

The Lords REPELLED the allegiance, in respect of the reply.

*Act.* Chalmers.

*Alt.* Lermont and Sinclair.

*Advocates' MS. No. 60, folio 79.*

1670. *July 5.* The PROVOST and BAILIES of RENFREW *against* PORTERFIELD of that Ilk.

THIS is a reduction by this town, of a decret arbitral, proceeding upon a submission entered into by the Provost then, (in name of the town,) *in anno 1632*, with this defender, anent some lands belonging to the said town, in property or as common good. The reason was, that the said town, and far less the provost by himself, had no power to enter into a submission anent their property given them by his Majesty's predecessors, with this express condition, that it should not be leasum to them to annalyie the same: but their submitting is a sort of aliena-